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Federal Register

Wednesday
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- 54721 **Gasoline** DOE provides guidance on sales of unleaded gasoline by resellers, reseller-retailers, and retailers under Mandatory Petroleum Price Regulations.
- 54807 **Grants** Interior/NPS requests comments on certain requirements in the Outdoor Recreation Grants-in-Aid Manual.
- 54724 **Banking** FHLBB clarifies policy on mergers of savings and loan institutions.
- 54754 **FHLBB** proposes regulations on mutual capital certificates.
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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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DEPARTMENT OF ENERGY

10 CFR Ch. II

Application of Mandatory Petroleum Price Regulations to Unleaded Gasoline Sales by Resellers, Reseller-Retailers, and Retailers

AGENCY: Department of Energy.

ACTION: Ruling.

SUMMARY: The Department of Energy (DOE) Office of General Counsel issues the appended Ruling pursuant to 10 CFR 205.150 to provide guidance on the application of the Mandatory Petroleum Price Regulations to sales of unleaded gasoline by resellers, reseller-retailers, and retailers. A written comment of objection to the appended Ruling may be filed at any time with the DOE Office of General Counsel pursuant to the provisions of 10 CFR 205.153.

FOR FURTHER INFORMATION CONTACT: Lona L. Feldman, Office of General Counsel, Department of Energy, 1000 Independence Avenue SW., Room 6B234, Forrestal Building, Washington, D.C. 20585, (202) 252-2929.

Issued in Washington, D.C.

Dated: October 28, 1981.

Lona L. Feldman,

Assistant General Counsel for Interpretations and Rulings.

Title 10 of the Code of Federal Regulations is hereby amended by adding Ruling 1981-3 to the Rulings appearing in the appendix to Subchapter A to read as follows:

Ruling 1981-3

Application of the Mandatory Petroleum Price Regulations to Unleaded Gasoline Sales by Resellers, Reseller-Retailers, and Retailers

This ruling is intended to provide guidance on the application of the

Mandatory Petroleum Price Regulations¹ to sales of unleaded gasoline by resellers, reseller-retailers, and retailers. During the period of petroleum price controls, gasoline was a "covered product"² subject to maximum allowable prices under 10 CFR Part 212.³ The general price rules for sales of covered products by resellers, reseller-retailers, and retailers⁴ were contained in Part 212, Subpart F. Within that Subpart, § 212.93(a) set forth the general price rule for sales of gasoline by these firms. As originally promulgated effective January 14, 1974, that regulation provided in relevant part:

A seller may not charge a price for any item subject to this subpart which exceeds the weighted average price at which the item

¹ Effective January 28, 1981, Executive Order 12287, 46 FR 9909 (January 30, 1981) exempted crude oil and refined petroleum products from the price and allocation controls adopted pursuant to the Emergency Petroleum Allocation Act of 1973, as amended (EPAA), Pub. L. No. 93-159 (November 27, 1973), 15 U.S.C. 751 *et seq.* (1976). Effective March 30, 1981, the regulations discussed in this Ruling were revoked. 46 FR 20508 (April 3, 1981).

² The term "covered product," which was defined in § 212.31, included gasoline. The term "gasoline" was originally defined in § 212.31 as:

* * * any of the various grades of retail gasoline other than aviation gasoline.

39 FR 1924, 1950 (January 15, 1974). The term "gasoline" was subsequently amended to read:

* * * all of the various grades, other than aviation gasoline, of refined petroleum naphtha which, by its composition, is suitable for use as a carburetor in internal combustion engines.

40 FR 2795, 2796 (January 16, 1975). Thus, gasoline for use in motor vehicles (other than aviation gasoline), whether regular or premium, leaded or unleaded, was a covered product under the Mandatory Petroleum Price Regulations.

³ EPAA section 4(a) directed as follows:

* * * [T]he President shall promulgate a regulation providing for the mandatory allocation of crude oil, residual fuel oil, and each refined petroleum product, in amounts specified in (or determined in a manner prescribed by) and at prices specified in (or determined in a manner prescribed by) such regulation * * *. Such regulation shall apply to all crude oil, residual fuel oil, and refined petroleum products produced in or imported into the United States. [Emphasis added.] The term "refined petroleum product" was defined in EPAA section 3(5) as "gasoline, kerosene, distillates (including No. 2 fuel oil), LPG, refined lubricating oils or diesel fuel." Thus, the EPAA made no distinctions between premium, regular, and unleaded gasoline. Each of these types of gasoline was subject to allocation and price controls. See 10 CFR 212.2 and 10 CFR 212.10 as originally promulgated, 39 FR 1924, 1950 (January 15, 1974) and as amended, 40 FR 60036, 60037 (December 31, 1975).

⁴ The terms "reseller," "reseller-retailer," and "retailer" were also defined in 10 CFR 212.31.

was lawfully priced by the seller in transactions with the class of purchaser concerned on May 15, 1973, plus an amount which reflects on a dollar-for-dollar basis, increased costs of the item.

39 FR 1924, 1950 (January 15, 1974).

On May 23, 1974, the Federal Energy Office (FEO)⁵ issued an interim rule at § 212.112 effective June 1, 1974 (the June interim rule), specifying the manner in which the price rules of Part 212 applied to determine maximum allowable prices for unleaded gasoline by refiners and by resellers, reseller-retailers, and retailers, that did not sell unleaded gasoline on May 15, 1973, or within the 30-day period prior to that date. For affected resellers, reseller-retailers, and retailers, the June interim rule specified how unleaded gasoline was to be priced under the general price rule for those firms set forth at § 212.93(a). Section 212.112(b) provided:

(ii) For purposes of determining under § 212.93(a) the weighted average price at which unleaded gasoline was lawfully priced by the seller in transactions on May 15, 1973, a reseller, reseller-retailer, or retailer shall not use a price in excess of the weighted average price at which premium grade gasoline was lawfully priced by it with the class of purchaser concerned on May 15, 1973; and

(iii) For purposes of computing under § 212.92 the "increased cost" of unleaded gasoline, a reseller, reseller-retailer, or retailer shall use the difference between the weighted average unit cost of unleaded gasoline in inventory and the weighted average unit cost of premium grade gasoline in inventory on May 15, 1973.

39 FR 18638 (May 29, 1974). A similar regulation was promulgated at § 212.112(b)(i) for refiners subject to the refiner price formulae of 10 CFR Part 212, Subpart E. *Id.* Thus, under the June interim rule, affected refiners, resellers, reseller-retailers, and retailers were required to calculate their maximum allowable prices for unleaded gasoline to a class of purchaser by reference to the prices they lawfully charged for

⁵ The FEO was the predecessor of the Federal Energy Administration (FEA) whose functions under the EPAA were transferred to the Department of Energy (DOE) under the Department of Energy Organization Act (DOEOA), 42 U.S.C. 7101 *et seq.* (Supp. III 1979).

premium grade gasoline in transactions⁶ on May 15, 1973.⁷

The June interim rule at § 212.112(b) was amended effective July 10, 1974 (July rule). The July rule also specified in § 212.112(b) the manner in which the reseller, reseller-retailer and retailer price rules in Part 212, Subpart F applied, stating in pertinent part:

(2) for purposes of determining, under § 212.93(a), the weighted average price at which unleaded gasoline was lawfully priced by the seller in transactions with the class of purchaser concerned on May 15, 1973, a reseller, reseller-retailer, or retailer shall use a price not in excess of the weighted average price at which leaded gasoline of the same or nearest octane number was lawfully priced by it in transactions with that class of purchaser on May 15, 1973; and

(3) for purposes of computing under § 212.92 the "increased costs" of unleaded gasoline, a reseller, reseller-retailer, or retailer shall use the difference between the weighted average unit cost of unleaded gasoline in inventory and the weighted average unit cost of leaded gasoline of the same or nearest octane number in inventory on May 15, 1973.

39 FR 24923, 24924 (July 8, 1974).

A similar regulation was promulgated at § 212.112(b)(1) for refiners. *Id.* Thus, the July rule required affected sellers to calculate their maximum allowable prices in sales of unleaded gasoline to a class of purchaser by reference to the prices they lawfully charged for leaded gasoline of the same or nearest octane number in transactions on May 15, 1973.

On April 5, 1978, the Temporary Emergency Court of Appeals (TECA) held that the July rule for refiners was adopted in violation of two procedural requirements for rulemaking which were contained in the Federal Energy Administration Act of 1974 (FEAA), Pub. L. No. 93-275 (May 7, 1974), 15 U.S.C. 761 *et seq.* (1976) [current version at 15 U.S.C. 761 *et seq.* (Supp. II 1978)], and was therefore void. *Shell Oil Co. v. Federal Energy Administration*, 574 F. 2d 512 (1978), *aff'd* 440 F. Supp. 876 (D.C. Del. 1977). The court found that in promulgating the July rule FEA had failed to comply with FEAA section 7

(i)(1)(C), 15 U.S.C. 766(i)(1)(C) (1976) (repealed 1977), which required the agency to provide to the public an opportunity for oral presentation of views, and with section 7(i)(1)(B), 15 U.S.C. 766(i)(1)(B) (1976) (repealed 1977), requiring the agency to provide an opportunity for comment for at least 10 days after a proposed rule is noticed in the Federal Register.⁸ With respect to the 10-day comment requirement the court expressly rejected the agency's claim that the comment period provided by the agency for the June interim rule applied to the July rule for refiners, because the June interim rule varied too greatly from the July rule for comments on the June interim rule to apply to the July regulation. 574 F. 2d at 517.⁹ FEA also did not provide an opportunity for oral presentation of views on the reseller, reseller-retailer, and retailer unleaded price rule. Furthermore, the differences between the June interim rule and July rule for these firms were similar to the differences between the June interim rule and July rule for refiners. Thus, DOE has determined that, under the reasoning of the *Shell* decision, it will not seek to give effect to the July unleaded gasoline rule for resellers, reseller-retailers, and retailers (§ 212.112(b)(2) and (3)).

Accordingly, the rule prescribing maximum allowable prices which resellers, reseller-retailers, and retailers could have charged for unleaded gasoline under Part 212 remains § 212.93(a) and other applicable regulations in Part 212. As stated in the Preamble to the June interim rule, 39 FR at 18638, FEA intended only to supplement the general reseller, reseller-retailer, and retailer price rules for all covered products (including unleaded gasoline) set forth at Part 212, with these special unleaded gasoline price rules. See Preamble to Final Price Rule for Unleaded Gasoline, 39 FR at 24923. In the absence of these special rules, these

firms have been required to price unleaded gasoline under the provisions of Part 212 applicable to sales of gasoline.

Issued in Washington, D.C. on October 28, 1981.

R. Tenney Johnson,

General Counsel.

[FR Doc. 81-31908 Filed 11-3-81; 8:45 am]

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FEDERAL HOME LOAN BANK BOARD

12 CFR Part 552

[No. 81-651]

Delegation of Authority Regarding State Stock to Federal Stock Conversions

October 29, 1981.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule.

SUMMARY: The Board has delegated to the Principal Supervisory Agent of the appropriate Federal Home Loan Bank authority to approve applications for conversion of state-chartered savings and loan institutions to Federally-chartered savings and loan institutions in order to expedite the processing of such applications.

EFFECTIVE DATE: November 2, 1981.

FOR FURTHER INFORMATION, CONTACT: John P. Soukenik, Office of General Counsel (202-377-6427), Federal Home Loan Bank Board, 1700 G Street, NW., Washington, D.C. 20552.

SUPPLEMENTARY INFORMATION: Section 552.2-1 of the Rules and Regulations for the Federal Savings and Loan System (12 CFR 552-2.1) establishes rules for the conversion of state-chartered stock institutions to Federally-chartered stock institutions, and provides that approval of a state stock to Federal stock conversion may be given by the Office of Industry Development, with the concurrence of the Office of General Counsel.

Based on its experience with conversion applications processed pursuant to § 552.2-1, the Board has determined to delegate approval authority to the Principal Supervisory Agent of the Federal Home Loan Bank of which the converting institution is a member. The Board adopts this change because the majority of conversion applications do not raise substantial legal issues requiring review by the Board's staff in Washington, D.C.

⁶ "Transaction" was defined in 10 CFR 212.31 as:

* * * an arm's-length sale between unrelated persons which are not members of a controlled group (as defined in 26 U.S.C. 1563(a)) and is considered to occur at the time and place when a binding contract is entered into between the parties.

39 FR 1924, 1951 (January 15, 1974) (as amended 40 FR 60036, 60038 (December 31, 1975)).

⁷ The June interim rule was held invalid for failure to meet the applicable requirements of proper notice and opportunity for comment set forth in the Administrative Procedure Act. *Consumers Union of the United States, Inc. v. Seachill*, 393 F. Supp. 639 (D.D.C.), *aff'd per curiam*, 523 F. 2d 1404 (Temp. Emer. Ct. App. 1975).

⁸ Procedural requirements for rulemaking by DOE are contained in DOEEOA § 501 (as amended), 42 U.S.C. 7191 (Supp. III 1979).

⁹ In a recent court decision, the possible application of *Shell* to the reseller, reseller-retailer, and retailer unleaded gasoline price rule was discussed. *Power Test Petroleum Distributors, Inc. v. DOE*, No. 81-283 (D.D.C., Mar. 31, 1981) (Memorandum Opinion dismissing action for declaratory judgment and injunctive relief based on the plaintiff's failure to exhaust its administrative remedies), *appeal docketed*, No. DC-86 (Temp. Emer. Ct. App., April 28, 1981). A number of sellers of unleaded gasoline against whom DOE has initiated enforcement proceedings have also raised this issue.

Applications requiring legal review may be forwarded by the Principal Supervisory Agent to the Board for consideration and appropriate action. Recommendations for denial continue to require referral and action by the Board.

Because the amendment pertains to internal Board procedures and will facilitate the processing of applications for state stock to Federal stock conversion, and because it is in the public interest to provide prompt action on conversion applications, the Board believes it is in the public interest to implement the amendment without delay, and has therefore determined that observance of the notice and public procedure provisions of 12 CFR 508.11 and 5 U.S.C. 553(b) would be contrary to the public interest and unnecessary, and because publication of the amendments for the period specified in 12 CFR 508.14 and 5 U.S.C. 553(d) prior to the effective date of the amendment would, in the Board's opinion, likewise be unnecessary for the same reasons, the Board hereby provides that the amendment shall become effective as provided herein.

Accordingly, the Board hereby amends Part 552 of Subchapter C, Chapter V of Title 12, Code of Federal Regulations, as set forth below.

SUBCHAPTER C—FEDERAL SAVINGS AND LOAN SYSTEM

PART 552—STOCK ASSOCIATIONS

Revise the first sentence of § 552.2-1 to read as follows:

§ 552.2-1 Conversion from state stock to Federal stock charter.

With the approval of the Principal Supervisory Agent, any state stock savings and loan type institution that existed in stock form prior to March 31, 1976, may convert to a Federal stock association, subject to its compliance with the requirements set forth in §§ 543.8 through 543.11 of this Subchapter governing conversion to a Federal mutual association. * * *

(Sec. 5, 48 Stat. 132, as amended; Sec. 105, Pub. L. 93-495, October 28, 1947; Secs. 402, 403, 407, 48 Stat. 1256, 1257, 1260, as amended; 12 U.S.C. 1725, 1726, 1730; Sec. 5, 48 Stat. 132 as amended; 12 U.S.C. 1464. Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943-48 Comp., p. 1071)

By Federal Home Loan Bank Board.

J. J. Finn,
Secretary.

(FR Doc. 81-31997 Filed 11-3-81; 8:45 am)

BILLING CODE 6720-01-M

12 CFR Parts 522 and 563f

(No. 81-654)

Internal Processing—Election of Federal Home Loan Bank Directors, and Filing Applications Relating to Management Official Interlocks

October 29, 1981.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule.

SUMMARY: The Board has amended its regulations to streamline the processing of elections for directors to the boards of the Federal Home Loan Banks and to permit merged or consolidated institutions, located in the same state and Federal Home Loan Bank district, to recognize their increased size in determining the number of votes they may cast in such an election held in the year of the merger or consolidation. The Board has also amended its regulations to provide procedures for submission of applications under the management official interlock rules.

EFFECTIVE DATE: October 29, 1981.

FOR FURTHER INFORMATION CONTACT: David J. Bristol (202-377-6461), or Debra C. Jenkins (202-377-6464), Office of General Counsel, Alan Hawkins, Office of Examinations and Supervision (202-377-6048), or James R. Silksen, Office of District Banks (202-377-6852), Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552.

SUPPLEMENTARY INFORMATION: Current regulations for electing directors to the boards of Federal Home Loan Banks set forth detailed requirements pertaining to the processing of ballot materials. In recent years as much as 100 hours of staff time has been consumed in following these procedures. The Board believes that election processing can be expedited by delegating to the Board's Office of District Banks the preparation of appropriate ballot material forms and by instructing members to mail ballots directly to that office, instead of to the Board's Office of the Secretary. Therefore, the Board has amended 12 CFR 522.25 and 522.26 to provide for such expedited process.

The Board is authorized by Section 7(b) of the Federal Home Loan Bank Act, 12 U.S.C. 1427(b), to promulgate regulations regarding the selection of Bank directors by member institutions. Pursuant to section 7(b), the number of votes a member may exercise is determined by the amount of Federal Home Loan Bank stock to which it has subscribed at the end of the calendar year next preceding the election. See 12 CFR 522.26(b). The requisite shares of

stock are determined by a percentage of outstanding mortgage loans as prescribed by 12 U.S.C. 1426(c). Thus, under the present system, a member institution may only cast the number of votes determined by the amount of its stock subscription at the end of the year next preceding the election.

Strict application of this language to member institutions that have merged or consolidated in the year of the election in question has resulted in several complaints from institutions. Merged institutions are only entitled to vote the number of shares the surviving institution had on the requisite date; the number of shares ascribed to the disappearing institution is not included. This can result in a significant number of lost votes in "reverse mergers," where the surviving institution has the smaller number of shares. Under the current regulation, an even greater loss may occur with respect to a consolidation. For example, where two institutions leave the Bank System to form a new institution that immediately applies for and is granted Bank membership, the new institution is not entitled to any votes. As the number of mergers and consolidations increase, more institutions are affected adversely by the current regulation.

The Board believes that a member should not be prevented from exercising the maximum votes to which it would otherwise be entitled as a result of its new size. The Board therefore has determined to amend § 522.26(b) to provide that a member may cast the number of votes equal to the number of shares of Bank stock which it was required to hold as of the end of the calendar year preceding the election. For purposes of this section, the term "member" includes an institution resulting from the merger or consolidation, occurring in the year of election, of two or more member institutions that are located in the same state and the Federal Home Loan Bank District. As a result of the amendment to § 522.26(b), such an institution will be entitled to cast the number of votes equal to the total number of shares that the merged or consolidated institutions comprising it were required to hold prior to the restructuring, subject to the limitations contained in § 522.26.

On December 15, 1980, the Board amended 12 CFR Part 563f by adopting new § 563f.7 (Board Resolution No. 80-801; 45 FR 84012, December 22, 1980) which allows insured institutions to apply for exemptions under § 563f.4 and extensions of time under § 563f.6 regarding compliance with the Management Official Interlock rules of

that Part. As adopted, § 563f.7 contains no instruction regarding application procedures. To remedy this oversight, the Board is amending § 563f.7 to instruct institutions seeking exemptions or extensions to submit three copies of the application to the Principal Supervisory Agent of the district in which such institution is located.

Because the changes relate to internal Board procedures regarding the processing of election materials and applications and to the procedure for calculating votes of merged or consolidated institutions, and because it is in the public interest to provide prompt action on such matters, the Board believes it is in the public interest to implement these amendments without delay. Therefore, the Board has determined that notice and public procedure with respect to the amendments are not practicable under the provisions of section 803 of the Financial Regulations Simplification Act of 1980 (Pub. L. 96-221), and are contrary to the public interest and unnecessary under the provisions of 12 CFR 508.11 and 5 U.S.C. 553(b); and because publication of the amendments for the period specified in 12 CFR 508.14 and 5 U.S.C. 553(d) prior to the effective date of the amendment would, in the Board's opinion, likewise be unnecessary for the same reasons, the Board has determined that the amendment shall become effective as provided herein.

Accordingly, the Federal Home Loan Bank Board hereby amends Parts 522 and 563f, Subchapters B and D, respectively, Chapter V of Title 12, Code of Federal Regulations, as set forth below.

SUBCHAPTER B—REGULATIONS FOR THE FEDERAL HOME LOAN BANK SYSTEM

PART 522—ORGANIZATION OF THE BANKS

1. Revise paragraphs (b) and (c) of § 522.25, to read as follows:

§ 522.25 Designation and nomination of elective directorships.

(b) Each member in each state entitled under these regulations to participate in the election of directors may by resolution of its governing body nominate or authorize one of its directors or officers to nominate a qualified person for each directorship to be filled in its state. The nominating certificate must be received in the Board's Office of District Banks by September 4.

(c) A letter will be sent to each nominee by September 18 informing him of his nomination. However, no such

letter will be sent to any nominee (1) Then serving as an elective director whose term does not expire until after the close of the calendar year during which the election is being held; (2) holding an appointive directorship, unless the Office of District Banks has received from him, before September 4, notice of his intention to be a candidate for a directorship; or (3) determined by the Board to be ineligible under section 7(d) of the Act. With such letter will be sent a list of nominees and a questionnaire. The completed questionnaire must be received in the Office of District Banks by October 3 for the nominee to have his name placed on the election ballot. A nominee shall be eligible for election only if his name is so placed on the ballot.

2. Revise paragraphs (a), (b), (c) and (f) of § 522.26, to read as follows:

§ 522.26 Election of directors.

(a) By November 1, the Board will mail to each member in each state for which an elective directorship is to be filled a set of ballot materials in a form prescribed by the Board's Office of District Banks. The ballot will contain in alphabetical order the name of each candidate to represent the members located in such state who has complied with the provisions of § 522.25 of this Part, the name and address of the member institution with which each candidate is affiliated, the candidate's title in the member institution, and the number of votes the member may cast, determined under the provisions of paragraph (b) of this section.

(b) The number of votes each member may cast shall equal the number of shares of stock in the Bank required by the Act to be held by such member at the end of the calendar year preceding the election, except that: (1) A member that is the result of a merger or consolidation, occurring in the year of election, of two or more member institutions within the same state and Federal Home Loan Bank district, may cast votes equal to the total number of shares of stock that the merged or consolidated institutions comprising it were required to hold as of the end of the calendar year preceding the election, and (2) no member may cast votes in excess of the average number of such shares required by the Act to be held at the end of such calendar year by members in such state.

(c) Each member entitled to receive a ballot may, by resolution of its governing body, cast its votes or authorize one of its directors or officers to cast its votes for each of as many candidates as there are directorships to

be filled. The ballot materials shall be sent to the Office of District Banks and must be received by December 3.

(f) Election ballots will not be opened until after 5 p.m., e.s.t., December 3. Only ballots executed on forms supplied by the Board will be considered. No ballot may be changed after it is delivered to the Office of District Banks which will preserve all ballots until the end of the next calendar year. If any date specified in §§ 522.24 through 522.26 occurs on a Saturday, Sunday, or holiday, the next business day shall be included in the time allowed. No nominating certificate, questionnaire, or ballot shall be considered unless received in the Office of District Banks by the date specified.

SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

PART 563f—MANAGEMENT OFFICIAL INTERLOCKS

3. Amend § 563f.7 by adding a new sentence to the end thereof, to read as follows:

§ 563f.7 Delegation of authority to grant exemptions and extensions of time.

* * * Applications made pursuant to this section should be submitted in triplicate to the Principal Supervisory Agent of the district in which the applicant is located.

(Secs. 402, 403, 407, 48 Stat. 1256, 1257, 1260, as amended (12 U.S.C. 1725, 1726, 1730); sec. 5A, 47 Stat. 727, as amended by sec. 1, 64 Stat. 256, as amended; sec. 17, 47 Stat. 736, as amended (12 U.S.C. 1426a, 1437); Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943-48 Comp., 1071)

By the Federal Home Loan Bank Board.

J. J. Finn,
Secretary.

[FR Doc. 81-31996 Filed 11-3-81; 8:45 am]

BILLING CODE 6720-01-M

12 CFR Part 571

[No. 81-650]

Statement of Policy on Mergers

October 29, 1981.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule.

SUMMARY: The Federal Home Loan Bank Board has clarified its general policy with regard to mergers of savings and loan institutions and the legal criteria the Board will apply in approving merger applications. Because of the increased number of mergers occurring

in the current economic environment, the Board determined that its current policy in reviewing those mergers should be stated as soon as possible.

EFFECTIVE DATE: November 5, 1981.

FOR FURTHER INFORMATION CONTACT:

John R. Hall, Associate General Counsel
(202) 377-6450, Federal Home Loan
Bank Board, 1700 G Street, N.W.,
Washington, D.C. 20552.

SUPPLEMENTARY INFORMATION: Section 571.5 of the Rules and Regulations for Insurance of Accounts (12 CFR 571.5) sets out the policy of the Federal Home Loan Bank Board regarding mergers of savings and loan institutions that are insured by the Federal Savings and Loan Insurance Corporation. That Statement of Policy describes the Board's general policy on mergers and specifies the criteria that the Board applies in reviewing merger applications. By amending that policy statement the Board intends to clarify that (1) It regards the determination to merge savings and loan institutions primarily as a business decision and (2) the Board will deny a merger on anti-competitive grounds only if it determines that the merger would be likely to violate applicable antitrust laws. The amendment also clarifies the factors on which the Board will base its antitrust analysis.

The amendment also makes technical changes that reflect the Board's current requirements regarding the form of opinions concerning the tax consequences of mergers and the form of merger proposals and of required non-inducement affidavits.

Because it is necessary that savings and loan institutions contemplating mergers understand the Board's current policy regarding mergers without delay, the Board has determined that the notice and public comment procedures of 5 U.S.C. 553(b) and 12 CFR 508.11 and the delay of effective date provided under 5 U.S.C. 553(d) and 12 CFR 502.14 are unnecessary and not in the public interest and the amendment will therefore take effect as provided above.

Accordingly, the Board hereby amends Part 571, Subchapter D, Chapter V of Title 12, Code of Federal Regulations, as set forth below.

SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

PART 571—STATEMENTS OF POLICY

Amend § 571.5 by revising paragraph (a) and paragraph (b)(1) and adding new paragraphs (b)(3) and (4), removing paragraph (c), redesignating paragraph (d) as paragraph (c) and amending paragraph (c)(1), redesignating

paragraphs (e) through (g) as paragraphs (d) through (f) respectively, amending paragraph (h) and redesignating it as paragraph (g), redesignating paragraph (i) as paragraph (h), and revising paragraph (j) and redesignating it as paragraph (i), to read as follows:

§ 571.5 Mergers.

(a) *General policy.* This is a statement of the Federal Home Loan Bank Board's general policy on merger proposals. It does not apply to mergers instituted for supervisory reasons. The term "merger" includes consolidations and bulk purchases of assets in exchange for assumption of savings accounts and other liabilities. Potential merger applicants are encouraged to review proposed mergers with the Supervisory Agent prior to proceeding with the formal application process. Generally, the Board regards mergers primarily as business decisions to be made by the institutions involved.

(b) *Legal considerations.*—(1) *General.* Conformity under law and regulation is a precondition to approval by the Board. Applicable laws and regulations include the Federal antitrust laws (the Clayton and Sherman Acts), Section 408 (regulation of holding companies) of the National Housing Act, the Community Reinvestment Act of 1977, applicable State law, and the Board's own regulations. To enable the Board to make a legal evaluation of the possible anticompetitive impact of proposed mergers, applicants are required to submit certain information on Board-prescribed forms available at each Federal Home Loan Bank and such other information as may be requested by the Supervisory Agent.

(3) *Antitrust considerations.* The Board will examine the impact of the merger on competition under the relevant antitrust laws and will only deny a merger on competitive grounds if the merger will be likely to violate those laws. This analysis will be done for each relevant geographic market. All firms reasonably competitive with the business of the merging institutions will be taken into account in determining deposit and loan market statistics and the competitive consequences of the merger. In determining whether a violation of the antitrust laws is likely, the Board will examine all of the relevant facts, including (i) Competition currently existing in the relevant markets as demonstrated by the applicant, or otherwise determined by the staff; (ii) market shares and the reliability thereof, whether based on deposits, loans or other pertinent criteria; (iii) the ranking of the resulting

institution and of other competing institutions in the relevant markets; (iv) the number and size distribution of competitors; (v) trends in the market toward concentration or deconcentration; and (vi) the history and pattern of expansion and growth in the market, including the existence of potential entrants and future procompetitive trends.

(4) *Convenience and needs.* The Board will also examine the extent to which the merger will affect the convenience and needs of the communities to be served, and the impact, if any, on operating efficiency of the resulting institution.

(c) *Managerial and financial aspects.*—(1) *Managerial aspects.* The Board's primary requirement is that the resulting institution have the managerial and financial resources to operate successfully. The experience and the performance record of the persons to be in control or in key managerial positions will be evaluated as to the probability of sound operation of the resulting institution. If the merger proposal provides for a temporary increase in the board of directors of a surviving Federal association to a number in excess of that permitted by the association's charter, the Board will deem such merger proposal provision to be an application for an appropriate charter amendment. The maximum number of directors, however, may not exceed a number equal to the total number of directors on boards of the involved associations on the date on which each association adopted the plan of merger, and the number of directors must be reduced within three years to not more than 25.

(g) *Non-inducement affidavits.* The application should include a non-inducement affidavit on a Board-prescribed form signed by each senior officer, director and controlling person of both the disappearing and the resulting institution, and each attorney or law firm regularly serving the disappearing or resulting institution.

(i) *Tax liability.* A tax ruling from the Internal Revenue Service or a tax opinion will be required.

(Sec. 5 of the Home Owners' Loan Act, 12 U.S.C. 1464; sections 402, 403, & 407 of the National Housing Act, 12 U.S.C. 1725, 1726, & 1730; Reorg. Plan No. 3 of 1947, 3 CFR 1071 (1943-48 Comp.))

By the Federal Home Loan Bank Board.
J. J. Finn,
Secretary.

[FR Doc. 81-31908 Filed 11-3-81; 8:45 am]
BILLING CODE 6720-01-M

FARM CREDIT ADMINISTRATION

12 CFR Part 614

Loan Policies and Operations; Correction

AGENCY: Farm Credit Administration.
ACTION: Final rule; correction.

SUMMARY: On October 22, 1981, the Farm Credit Administration published final regulations implementing those provisions of the Farm Credit Act Amendments of 1980 (Pub. L. 96-592) which expand the authority of financing institutions, other than Farm Credit System institutions, to borrow from and discount with Federal intermediate credit banks (46 FR 51882). This document corrects § 614.4545(b) of those final regulations.

FOR FURTHER INFORMATION CONTACT: Larry H. Bacon, Deputy Governor, Office of Administration, Farm Credit Administration, 490 L'Enfant Plaza, S.W., Washington, DC 20578.
Donald E. Wilkinson,
Governor.

PART 614—LOAN POLICIES AND OPERATIONS

Accordingly, the Farm Credit Administration is correcting 12 CFR 614.4545(b) to read as follows:

§ 614.4545 General.

(b) An OFI meeting the basic eligibility criteria in § 614.4550 of this subpart shall have its request for access evaluated on the basis of its ability to make and service a sound loan portfolio and its managerial and financial strength. The presence of two or more OFI's serving the same territory or the failure of an OFI to enter into loan participations with production credit associations shall not be considered in evaluating the request for access. Financial assistance may be provided through a direct loan to the OFI, or by purchasing or discounting individual loans made by the OFI.

(Secs. 5.9, 5.12, 5.18, Pub. L. 92-181, 85 Stat. 619, 620, 621, 12 U.S.C. 2243)

[FR Doc. 81-31920 Filed 11-3-81; 8:45 am]
BILLING CODE 6705-01-M

CIVIL AERONAUTICS BOARD

14 CFR Part 296

[Economic Reg. Reissuance of Part 296;
Docket 39485; Reg. ER-1261]

Indirect Air Transportation of Property; Eliminating Registration, Reporting, Airwaybill and Manifest Requirements

AGENCY: Civil Aeronautics Board.
ACTION: Final rule.

SUMMARY: The CAB is eliminating the registration and reporting requirements to U.S. air freight forwarders and cooperative shippers associations, and is merging those two categories into one: Indirect cargo air carriers. The rule further eliminates the airwaybill and manifest requirements for those indirect carriers. This rule is a step in the phased transition to a deregulated and more competitive domestic air cargo system. It relieves non-essential regulatory burdens from those carriers, many of which are small businesses.

DATES: Effective: November 4, 1981, except for § 296.2 which is effective on December 4, 1981. Adopted: October 22, 1981.

FOR FURTHER INFORMATION CONTACT: Joseph A. Brooks, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428; 202-673-5442.

SUPPLEMENTARY INFORMATION: By Notice of Proposed Rulemaking EDR-421/ODR-24 (46 FR 20563, April 6, 1981), the Board proposed to remove regulatory restrictions no longer needed for U.S. indirect cargo air carriers, that is, air freight forwarders and cooperative shippers associations. Comments were received from American Institute for Shippers Associations, Inc., Emery Air Freight Corporation, and Aero Pak International. After review of the comments, the Board has decided to adopt the rules as proposed. The rule does not apply to foreign indirect cargo carriers.

The major changes from existing rules are:

- Removal of registration and reporting requirements for air freight forwarders and cooperatives;
- Elimination of the existing regulatory distinction between forwarders and cooperatives;
- Removal of all airwaybill and manifest requirements; and
- Change of insurance disclosure to require notice only of existence or absence of insurance.

Registration and Reporting

The Board has in the past required air freight forwarders and cooperative shippers associations to file a one-page registration form, listing their address and whether they qualify as a U.S. citizen. As explained in EDR-421, there no longer appears to be a regulatory need for such information. If needed, those data can be obtained by other means on an *ad hoc* basis. The registration form was not an operating authorization, where the Board determined the qualifications of the carrier, but was merely an informational tool for the Board. The registrant simply notified the Board that it intended to operate as a cargo indirect air carrier under the exemptions in 14 CFR Part 296.

Emery Air Freight opposed elimination of the registration requirement. It was concerned that removal of registration would subject indirect cargo air carriers to State regulation under section 105 of the Act, the Federal preemption provision. Section 105 preempts certain State regulation of air carriers "having authority under title IV of the Act." Emery argued that elimination of the registration requirement would lead to increased regulation of indirect cargo air carriers by States, implying that without a registration requirement indirect cargo air carriers would no longer have authority under title IV of the Act. In the past, the Board has used section 101(3) of the Act to "relieve" indirect cargo air carriers from other provisions of the Act governing air carrier operating authority "when in the public interest." This public interest standard was less restrictive than the standard then in section 416(b) of the Act. The Airline Deregulation Act changed the standards for granting an exemption under section 416(b) to that of "consistent with the public interest." Because the two standards are now substantially the same, the Board in this rule is using its power under section 416(b) to exempt indirect cargo air carriers from certain operating authority requirements in title IV of the Act, making clear that their authority derives from that title of the Act. The primary exemption is from certification requirements under section 401. It is the Board's opinion, therefore, that indirect cargo air carriers operate under authority granted under title IV of the Act for purposes of preemption in section 105. The States thus may not enact or enforce any regulation relating to the rates, routes, or services of indirect cargo air carriers.

Until now, air freight forwarders and cooperative shippers associations have been required to file annual reports with the Board. The information on these reports included simple revenue and traffic data. As the Board stated in EDR-421, the reports were required only to monitor the industry during the initial stages of deregulation. There is no longer a specific or ongoing regulatory need for this report. No component of the Board is now using this information. In EDR-421, the Board asked if any nongovernment party used the information, and if so, for what purpose. Aero Pak International was the only commenter that stated a use for the report. Aero Pak's use, however, is limited to presenting its own data in furthering its business interests. The report form is a convenient method of displaying revenue and traffic data. The Board is not persuaded that it should require the reports to be continued for that reason. The purpose for which the form and such data are used by Aero Pak and possibly other carriers can easily be accomplished by internal carrier documentation. Since the Board has found no regulatory need for the report, and there appears to be no nongovernment use that would require its continuation until a substitute is developed, the required report is eliminated.

Reclassification of Indirect Cargo Air Carriers

The Board proposed to eliminate the existing two categories of indirect cargo air carriers (airfreight forwarders and cooperative shippers associations) and use a single classification: Indirect cargo air carrier. Because of this final rule and other regulatory actions, there are no longer any regulatory distinctions between forwarders and cooperatives. Neither type will have to register or file reports. Both types will be allowed to act as agents of the direct carrier instead of an indirect air carrier. Both must now disclose liability limits to their shippers. Since there is no longer a regulatory purpose being served by having two classes of indirect cargo air carriers, the existing separate classes are eliminated.

Other Changes

The Board proposed two changes in the insurance and liability disclosure statement for indirect cargo air carriers. The Board has decided to adopt those changes. First, all indirect cargo carriers are required to disclose any limits imposed on their liability to shippers. In the past, only forwarders were required to make this disclosure. Since forwarders and cooperatives are now to

be treated alike for all other regulatory purposes, there is no reason to treat them differently in this regard.

The Board further proposed to change the insurance disclosure requirement to make it the same as for direct air carriers. In ER-1253, 46 FR 52572, October 27, 1981, the Board recently changed the cargo insurance disclosure notice for direct carriers to require only that the absence or existence of insurance be disclosed, not the insurance limits. The same change is made for indirect cargo air carriers.

In continuing the transition to deregulated operations for indirect cargo air carriers, the Board is eliminating the requirements for airwaybills and manifests, as proposed in EDR-421. The existing rule only required preparation of those documents, not their contents. Preparation of such documents or ones similar to them is a common and necessary business practice. There is no reason for a government rule to require normal business operations.

In ER-1241, 46 FR 43959, September 2, 1981, the Board clarified its exemptions for air carriers to state clearly that the carrier is exempt from the Act only if it complies with the terms of the rules containing the exemption. This change is made in Part 296 for indirect cargo air carriers.

The exemption with respect to control transactions is clarified so that it tracks the applicability of section 408 of the Act. The statutory term "persons controlling an air carrier" has thus been included in those persons exempt from section 408.

The reissued Part 296 contains the prohibition against receipt of commissions by indirect cargo air carriers for shipments accepted in that capacity. This prohibition is the subject of an ongoing rulemaking. Currently, air freight forwarders are exempted from this prohibition. See Order 80-9-147 (dated September 24, 1980).

No changes are found to be necessary in Parts 207, 208, and 212 to reflect the elimination of separate categories of indirect cargo air carriers.

Final Regulatory Flexibility Analysis

The discussion above constitutes the Board's final regulatory analysis of this rule, under 5 U.S.C. 604. Copies of this document can be obtained from the Distribution Section, Civil Aeronautics Board, Washington, D.C. 20428; (202-673-5432) by referring to the "ER" number at the top of the document.

Effective Date

This rule relieves restrictions on indirect cargo air carriers, and is made effective upon publication in the Federal

Register, except for that part of § 296.6 requiring cooperatives to disclose limits on their liability, which becomes effective December 4, 1981.

Accordingly, the Board amends 14 CFR Part 296 by revising it as follows:

PART 296—INDIRECT AIR TRANSPORTATION OF PROPERTY

Subpart A—General

Sec.

- 296.1 Purpose.
- 296.2 Applicability.
- 296.3 Indirect cargo air carrier.
- 296.4 Joint loading.
- 296.5 Agency relationships.
- 296.6 Public disclosure of cargo liability limits and insurance.
- 296.7 Prohibition against receipt of commissions.

Subpart B—Exemption for Indirect Air Transportation of Property

- 296.10 Exemption from the Act.
- 296.11 No relief from antitrust laws.

Subpart C—Violations

- 296.20 Enforcement.

Authority: Secs. 101, 102, 204, 408, 409, and 410, Pub. L. 85-726, as amended, 72 Stat. 737, 740, 743, 767, 786, 771, 49 U.S.C. 1301, 1302, 1324, 1378, 1379, 1386.

Subpart A—General

§ 296.1 Purpose.

This part establishes rules for the indirect air transportation of property. It creates a class of air carriers to provide this air transportation and grants exemptions from certain provisions of the Federal Aviation Act.

§ 296.2 Applicability.

This part applies to air transportation of property by indirect cargo air carriers, and to persons entering into control relationships with indirect cargo air carriers.

§ 296.3 Indirect cargo air carrier.

An indirect cargo air carrier is any U.S. citizen who undertakes to engage indirectly in air transportation of property, and uses for the whole or any part of such transportation the services of an air carrier or a foreign air carrier that directly engages in the operation of aircraft under a certificate, regulation, order, or permit issued by the Board, or the services of its agent, or of another indirect cargo air carrier.

§ 296.4 Joint loading.

Nothing in this part shall preclude joint loading, meaning the pooling of shipments and their delivery to a direct air carrier for transportation as one shipment, under an agreement between

two or more indirect air carriers or foreign indirect air carriers.

§ 296.5 Agency relationships.

An indirect cargo air carrier may act as agent of a shipper, or of a direct air carrier that has authorized such agency, rather than as an air carrier, if it expressly reserves the option to do so when the shipment is accepted.

§ 296.6 Public disclosure of cargo liability limits and insurance.

Every indirect cargo air carrier shall give notice in writing to the shipper, when any shipment is accepted, of the existence or absence of cargo liability accident insurance, and of the limits on the extent of its liability, if any. The notice shall be clear and conspicuously included on or attached to all of its rate sheets and airwaybills.

§ 296.7 Prohibition against receipt of commissions.

No indirect cargo air carrier, acting in that capacity, shall accept directly or indirectly any payment of a commission on traffic tendered to a direct air carrier.

Subpart B—Exemption for Indirect Air Transportation of Property

§ 296.10 Exemption from the Act.

(a) Indirect cargo air carriers are exempted from the provisions of Title IV of the Act only if and so long as they comply with the provisions of this part and its conditions, and to the extent necessary to permit them to organize and arrange their air freight shipments to provide indirect air transportation, except for the following sections:

- (1) Subsection 403(b)(2) (rebating);
- (2) Subsection 404(a) to the extent required to provide safe service, equipment, and facilities in connection with air transportation.
- (3) Subsection 404(b) (nondiscrimination);
- (4) Subsection 407(a) (accounts, records, and reports) and 407(e) (inspection of accounts and property);
- (5) Section 411 (unfair or deceptive practices or methods of competition);
- (6) Section 413 (form of control); and
- (7) Section 415 (inquiry into air carrier management).

(b) Direct air carriers, common carriers that are not air carriers, persons controlling an air carrier, and persons substantially engaged in the business of aeronautics are exempted from section 408 of the Act with respect to any control transactions involving indirect cargo air carriers.

(c) Any officer or director of an indirect cargo air carrier is exempted from section 409 of the Act to the extent of participation in interlocking

relationships involving an indirect air carrier.

§ 296.11 No relief from antitrust laws.

The relief and exemptions granted in § 296.10 do not constitute orders within the meaning of section 414 of the Act, and do not confer any immunity or relief from the "antitrust" laws or any other statute except the Act. The relief and exemptions do not relieve any person from the preacquisition notification requirements of the Clayton Act (15 U.S.C. 18a), which apply to certain transactions involving firms with annual sales or assets of \$10 million or more.

Subpart C—Violations

§ 296.20 Enforcement.

In case of any violation of any of the provisions of the Act, or of this part, or any other rule, regulation, or order issued under the Act, the violator may be subject to a proceeding under section 1002 and 1007 of the Act before the Board or a U.S. District Court, as the case may be, to compel compliance. The violator may also be subject to civil penalties under the provisions of section 901(a) of the Act, or other lawful sanctions.

By the Civil Aeronautics Board.

Phyllis T. Kaylor.

Secretary.

[FR Doc. 81-32000 Filed 11-3-81; 8:45 am]

BILLING CODE 6320-01-M

ENVIRONMENTAL PROTECTION AGENCY

21 CFR Part 193

[PH-FRL 1976-5; FAP 1H5284/T73]

Chlorpyrifos; Tolerances for Pesticides in Food

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a food additive regulation related to the experimental use of the insecticide chlorpyrifos [*O,O*-diethyl *O*-(3,5,6-trichloro-2-pyridyl) phosphorothioate] and its metabolite 3,5,6-trichloro-2-pyridinol in or on milling fractions of wheat. The regulation was requested by Dow Chemical Co. This rule will permit the marketing of milling fractions of wheat (except flour) while further data is collected on chlorpyrifos.

EFFECTIVE DATE: Effective on November 4, 1981.

ADDRESS: Written objectors may be submitted to the: Hearing Clerk, Environmental Protection Agency, Rm.

M-3708 (A-110), 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT:

Jay S. Ellenberger, Product Manager (PM) 12, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 400 CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202 (703-557-7024).

SUPPLEMENTARY INFORMATION: EPA issued a notice published in the Federal Register of July 8, 1981 (46 FR 35342) that Dow Chemical Co., PO Box 1706, Midland, MI 48640, had submitted a food additive petition (FAP 1H5284) to the EPA. The petition proposed that 21 CFR 193.85 be amended by establishing a regulation permitting residues of the insecticide chlorpyrifos [*O,O*-diethyl *O*-(3,5,6-trichloro-2-pyridyl) phosphorothioate] and its metabolite 3,5,6-trichloro-2-pyridinol in or on milling fractions of wheat (except flour) at 3.0 parts per million (ppm).

No comments were received in response to this notice of filing.

The scientific data reported and other relevant material have been evaluated. The toxicological data considered in support of the regulation included a 2-year rat feeding/oncogenicity study and a dog feeding study with a no-observable-effect level (NOEL) of 0.1 milligram (mg)/kilogram (kg) of body weight (bw) per day; a mouse oncogenicity study which was negative at 15 ppm (highest dose); and a mouse teratology study which was negative at 25 mg/kg. Studies on delayed neurotoxicity and reproduction showed negative potential. Based on the 2-year chronic rat feeding study with NOEL of 0.1 mg/kg of bw/day, and using a safety factor of 10, the acceptable daily intake (ADI) for humans is 0.01mg/kg of bw/day.

The theoretical maximum residue contribution (TMRC) in the human diet from this tolerance and previously established tolerances for residues of chlorpyrifos on a variety of raw agricultural commodities at levels ranging from 0.01 ppm to 1.5 ppm do not exceed the ADI.

The metabolism of chlorpyrifos is adequately understood for this use, and an adequate analytical method (gas chromatography) is available for enforcement purposes. No regulatory actions are currently pending against continued registration of chlorpyrifos, nor are there any other relevant considerations involved in establishing this regulation.

Any person adversely affected by this regulation may, on or before December

4, 1981, file written objections with the Hearing Clerk, Environmental Protection Agency, Rm. M-3708, (A-110), 401 M St., SW., Washington, DC 20460. Such objections must 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.

As required by Executive Order 12291, EPA has determined that this rule is not a "Major" rule and therefore does not require a Regulatory Impact Analysis. In addition, the Office of Management and Budget (OMB) has exempted this regulation from the OMB review requirements of Executive Order 12291, pursuant to section 8(b) of that Order.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that the regulations establishing new food and feed additive levels, or conditions for safe use of additives, or raising such food and feed additive levels do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1981 (46 FR 24945).

Effective on: November 4, 1981.

(Sec. 409(c)(1), 72 Stat. 1786, (21 U.S.C. 348(c)(1)).

Dated: October 26, 1981.

James M. Conlon,
Director, Office of Pesticide Programs.

PART 193—TOLERANCES FOR PESTICIDES IN FOOD ADMINISTERED BY THE ENVIRONMENTAL PROTECTION AGENCY

Therefore, 21 CFR 193.85 is amended by adding paragraph (f) to read as follows:

§ 193.85 Chlorpyrifos.

(f) A tolerance of 3.0 parts per million is established for the combined residues of the insecticide chlorpyrifos [0,0-diethyl 0-(3,5,6-trichloro-2-pyridyl) phosphorothioate] and its metabolite 3,5,6-trichloro-2-pyridinol in or on the milling fractions of wheat (except flour) in accordance with an experimental use permit.

[FR Doc. 81-21978 Filed 11-3-81; 8:45 am]

BILLING CODE 6560-32-M

DEPARTMENT OF STATE

Bureau of Consular Affairs

22 CFR Part 41

[Departmental Regulation 108.812]

Nonresident Alien Mexican Border Crossing Cards

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: The Department of State amends its regulations relating to the issuance of nonresident alien Mexican border crossing cards to extend to certain consular officers in Mexico the authority to issue these cards in the form now prescribed by the Immigration and Naturalization Service (Form I-186) or in the form of a stamp placed in valid Mexican Federal passports.

EFFECTIVE DATE: October 30, 1981.

FOR FURTHER INFORMATION CONTACT: Gerald M. Brown, Chief, Legislation and Regulations Division, Visa Services, Bureau of Consular Affairs, (202) 632-1900.

SUPPLEMENTARY INFORMATION: At present, Mexican nationals who reside in Mexico and desire to enter the United States temporarily for business or pleasure may apply for either a nonimmigrant visa or a Mexican border crossing card issued on Form I-186. In an effort to facilitate the processing of such applications and the documentation of such travelers, the Department and the Immigration and Naturalization Service have agreed to the issuance of nonresident alien border crossing cards in the form of stamps which will be affixed to Mexican Federal passports by consular officers in Mexico. This new procedure will initially be implemented only at the United States Consulate General at Ciudad Juarez for a trial period. If eventually adopted throughout Mexico, such procedure will replace the existing procedure under which officers of the Immigration and Naturalization Service and certain consular officers in Mexico issue Mexican border crossing cards on Form I-186; it will make travel more convenient for nationals of Mexico who qualify for and obtain this type of card by the considerable time saving over the card lamination procedure currently in use.

Since the amendment in this order establishes a new procedure which confers a benefit upon affected persons and is a substantive rule relieving a restriction, the provisions of the Administrative Procedure Act (5 U.S.C. 553) relative to notice of proposed rule

making and delayed effective date are unnecessary in this instance. Accordingly, § 41.128 is amended as follows:

PART 41—VISAS: DOCUMENTATION OF NONIMMIGRANTS UNDER THE IMMIGRATION AND NATIONALITY ACT AS AMENDED

1. Section 41.128 subparagraphs "(1)" and "(2)" of paragraph (a) are amended to read "(i)" and "(ii)" respectively; the word "adacent" in the fifth line of paragraph (a) is corrected to "adjacent" and paragraphs (a) through (g) are redesignated as paragraphs (a)(1) through (a)(6).

2. A new paragraph (b) is added to § 41.128 to read:

§ 41.128 Nonresident alien Mexican border crossing card.

(b)(1) *Aliens eligible to apply.* Under the conditions prescribed in this section consular officers assigned to any consular office in Mexico may issue a nonresident alien border crossing identification card, as that term is defined in section 101(a)(6) of the Act, to a nonimmigrant alien who satisfactorily establishes that he:

- (i) Is a citizen and resident of Mexico;
- (ii) Seeks to enter the United States from Mexico only as a bona fide temporary visitor for business or pleasure as defined in section 101(a)(15)(B) of the Act for periods of stay not exceeding 6 months; and
- (iii) Is otherwise eligible to receive a temporary visitor visa or is the beneficiary of a waiver under section 212(d)(3)(A) of the Act of a ground of ineligibility which is valid for multiple applications for admission into the United States and for an indefinite period of time and which contains no restrictions as to extensions of temporary stay or itinerary.

(2) *Application for Mexican border crossing identification cards.* Application for a nonresident alien Mexican border crossing identification card shall be made on Form OF-158, accompanied by evidence of the applicant's citizenship status in Mexico; a valid Mexican Federal passport showing applicant's origin, identity, and nationality, and containing a photograph of the bearer if over the age of 14; and one photograph 1½ inches square if the applicant is over the age of 14. Each applicant applying at a consular office, except a child under 14 years of age, shall appear in person before a consular officer and be interrogated regarding his eligibility for a temporary visitor visa.

(3) *Issuance and format of border crossing cards.* A nonresident alien Mexican border crossing identification card shall consist of a stamp placed in the alien's Federal passport document by a consular officer in Mexico. Such stamps shall be numbered serially by each consular office beginning with the number 1 on each October 1, shall be in the format prescribed by the Department, and shall contain the following data:

- (i) The past symbol;
- (ii) The number of the card;
- (iii) The title and location of the issuing office;
- (iv) The date of issuance;
- (v) The name(s) of the person(s) to whom issued; and
- (vi) The signature and title of the issuing officer.

(4) *Signature of border crossing identification cards.* The consular officer who issues a nonresident alien Mexican border crossing identification card shall affix his signature to, and indicate his title in, the border crossing card stamp.

(5) *Validity of border crossing identification cards.* A nonresident alien Mexican border crossing identification card issued pursuant to the provisions of this section shall be valid until cancelled.

(6) *Cancellation of border crossing identification cards.* A consular officer:

- (i) Shall cancel a nonresident border crossing card if information is developed which indicates that the holder of such a card is ineligible to receive a nonimmigrant visa;
- (ii) Shall write or stamp the word "Canceled", when canceling such a card, plainly across the face of the border crossing card;
- (iii) Shall show the location of the consular office concerned; and
- (iv) Shall follow the procedures set forth in § 41.130.

(7) *Cancellation of border crossing identification cards by a District Director of the Immigration and Naturalization Service.* A District Director of the Immigration and Naturalization Service:

- (i) Shall cancel a nonresident border crossing identification card if he finds that the alien has violated the conditions of his admission into the United States;
- (ii) Shall write or stamp the word "Canceled", when canceling such a card, plainly across the face of the border crossing card stamp; and
- (iii) Shall show the location of the District Office of the Immigration and

Naturalization Service concerned.

(Sec. 104, 66 Stat. 174; 8 U.S.C. 1104; Sec. 109 (b)(1), 91 Stat. 847)

Dated: October 16, 1981.

Diego C. Asencio,

Assistant Secretary for Consular Affairs.

[FR Doc. 81-31904 Filed 11-3-81; 8:45 am]

BILLING CODE 4710-06-M

DEPARTMENT OF DEFENSE

Department of the Air Force

32 CFR Part 806b

[Air Force Regulation 12-35]

Air Force Privacy Act Program

AGENCY: Department of the Air Force, DoD.

ACTION: Final rule.

SUMMARY: This rule establishes a general exemption from certain provisions of Privacy Act of 1974 for a new system of records identified as F12407 OSI A, DoD Fraud Investigation Management Information System. This general exemption is needed to protect information compiled during investigations of suspected criminal activity.

DATE: December 4, 1981.

FOR FURTHER INFORMATION CONTACT:

Mr. Jon Updike, Air Force Privacy Office, HQ USAF/DAAD(S). The Pentagon, Washington, D.C. 20330; telephone 202/694-3431.

SUPPLEMENTARY INFORMATION: On August 27, 1981, at 46 FR 43187, the Department of the Air Force proposed a general exemption rule for this new system of records under the provisions of Title 5, United States Code Section 552a(j)(2) was published at 46 FR 43229, August 27, 1981. As no comments were received on the proposed rule, it is adopted as published. Accordingly, Part 806b of Title 32 of the Code of Federal Regulations is amended as follows:

PART 806b—AIR FORCE PRIVACY ACT PROGRAM

Section 806b.22 (a) is amended by removing the period at the end of the paragraph and adding the following:

§ 806b.22 General and specific exemptions claimed.

(a) * * * and F12407 OSI A, DoD

Fraud Investigation Management Information Systems.

M. S. Healy,

OSD Federal Liaison Officer, Washington, Headquarters Services, Department of Defense.

October 29, 1981.

[FR Doc. 81-31988 Filed 11-3-81; 8:45 am]

BILLING CODE 3910-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-7-FRL 1951-7]

Approval and Promulgation of Missouri State Implementation Plan: Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision, submitted by the State of Missouri which exempts existing Missouri type charcoal kilns and new kilns at existing production sites from compliance with Missouri Rule 10 CSR 10-3.050. This rule is the particulate process weight regulation for outstate Missouri. Sampling conducted in the vicinity of charcoal kilns indicates they do not cause violations of the ambient air quality standards even though none of the kilns existing in Missouri have emission controls. Thus exemption of these kilns from compliance with the regulation will not have an adverse impact on air quality.

DATE: This action will be effective January 4, 1982, unless notice is received within 30 days that someone wishes to submit adverse or critical comments.

ADDRESSES: Written comments should be addressed to Dwayne E. Durst, EPA Region VII, Air, Noise and Radiation Branch, 324 East 11th Street, Kansas City, Missouri 64106. Copies of the materials submitted by Missouri may be examined during normal business hours at the following locations:

Public Information Reference Unit,
Library Systems Branch,
Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460
Environmental Protection Agency,
Region VII, Air, Noise and Radiation Branch, Room 1415, 324 East 11th Street, Kansas City, Missouri 64106
Missouri Department of Natural Resources, 2010 Missouri Boulevard, Jefferson City, Missouri 65102.

FOR FURTHER INFORMATION CONTACT:

Dewayne E. Durst at the EPA, Region VII address above or call (816) 374-3791, (FTS 758-3791).

SUPPLEMENTARY INFORMATION:**Background**

On August 23, 1978 after proper notice and public hearing, the Missouri Air Conservation Commission adopted a regulation revision which exempts existing Missouri type charcoal kiln operations from process weight limitations. The revised rule was originally submitted to EPA on August 31, 1978. Because the original submittal did not contain adequate justification to support the rule change and because it did not request that the SIP be revised to include the revision, EPA returned the material for correction. The state resubmitted the revision on September 5, 1980 and requested that it be approved as part of the Missouri SIP.

The State of Missouri produces about 25 percent of the charcoal in the nation. Almost 100 percent of this production in the state is in Missouri type kilns. Missouri charcoal kilns are small garage-like structures of poured concrete masonry which are loaded and fired on a batch basis. A typical charcoal production facility consists of about 15 individual kilns. The raw material for the charcoal in Missouri is hardwood, much of which is waste from other forest products industries. The charcoal is produced by stacking the wood in the kiln, lighting the material and burning the wood with insufficient air so that destructive distillation or wood pyrolysis occurs. This results in the volatile components being driven off and the carbonaceous material which remains is charcoal.

Emissions from charcoal production contains particulate matter, carbon monoxide, carbon dioxide, methane, ethane, acetic acid, methanol and tars. Visible emissions from the Missouri kilns vary during the burning cycle but can be 100 percent opacity for most of the 5 to 8 day burning period. Emissions are vented through 8 short vent stacks on the side of the kiln which normally do not extend above the roof. Because of the vent configuration and the variability of the process, stack testing of the kiln emissions is very difficult. Stack testing which has been done indicates emissions of particulates and carbon monoxide from the kilns can be substantial. However, because of the variability in construction, operation, and type of wood used in Missouri type kilns, the emission factors which are available are not sufficiently reliable to calculate whether all kilns are in

compliance with the Missouri process weight regulation. Stack testing each of the approximately 540 individual kilns in the state would be economically infeasible for the operators or for state or Federal regulatory agencies. Installation of emission controls on the kilns has been thoroughly investigated but because of their multiple stack construction and the low profit margin for the charcoal production industry in Missouri this requirement has been determined to be infeasible for existing kiln operations.

The State of Missouri has conducted monitoring studies in the vicinity of charcoal production facilities to determine whether particulate air quality standards were exceeded. Sampling results from the studies indicated that charcoal production facilities did not cause violations of the standards. For the most part, the kilns are located in remote areas and have been in existence for many years.

Impact of Revision

The present action on the part of the State of Missouri to exempt existing charcoal kilns from the process weight regulations corrects what the state claims was an oversight in drafting the regulations in the early 1970's. Those regulations as originally drafted, specifically exempt Missouri type charcoal kilns from visible emission or opacity limitations. However, because charcoal kilns meet the definition of sources to be controlled under Rule 10 CSR 10-3.050, "Restriction of Emission of Particulate Matter from Industrial Processes", this action to specifically exempt the kilns from that rule is required if the rule is not going to be applied to them.

The exemption does not completely preclude the state from controlling emissions from charcoal kilns. If there is an increase in emissions from a production facility (due to reconstruction or replacement) or if new kilns are constructed at a location where kilns did not exist prior to the date the exemption was adopted, the state process weight regulation will apply. Also, if the cost of repair or replacement of kilns exceeds fifty percent (50%) of the replacement cost for the entire facility, the exemption is not applicable and the process weight regulation will apply. In those cases where the exemption does not apply, a permit would be required for construction or replacement of kilns. A permit could not be issued without a demonstration that the new source or modification would not interfere with attainment or maintenance of air quality standards. Thus this exemption will not

allow interference with attainment or maintenance of air quality standards.

At the time the state proposed this revision, EPA pointed out that there was an apparent conflict between the Prevention of Significant Deterioration (PSD) provisions of the Clean Air Act (CAA) and this revision. The basis for the conflict was the difference in the definition of facility contained in this revision and the one in the Federal PSD regulations as published in the *Federal Register* of June 19, 1978 (43 FR 26388). Under certain circumstances this difference would have required the application of Best Available Control Technology (BACT) to individual kilns under the PSD regulations but the state exemption would have allowed the kilns to be built without controls. Changes to the PSD regulations which were published in the *Federal Register* on August 7, 1980 (45 FR 52676) removed the conflict between state and Federal regulations as they pertain to this revision. Thus, if emissions are increased at a facility or if kilns are constructed at a new site both the state new source review regulations and the PSD regulations will now apply in a consistent manner.

No analysis to determine PSD increment consumption was necessary in this action because the actual emission from charcoal kilns are not affected and thus no increment is consumed.

Action

The EPA approves the submission as a revision to the Missouri SIP. The public should be advised that this action will be effective January 4, 1982. However, if notice is received within 30 days that someone wishes to submit adverse or critical comments, this action will be withdrawn and two subsequent notices will be published before the effective date. One notice will withdraw final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

Pursuant to the provision of 5 U.S.C. 605(b) I hereby certify that the attached rule will not have a significant economic impact on a substantial number of small entities. The reason for this determination is that it only approves a state regulation which actually exempts certain sources from emission controls.

Under Executive Order 12291, EPA must judge whether a rule is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This rule is not "major" because it only approves state actions and imposes no

additional substantive requirements which are not currently applicable under state law. Hence it is unlikely to have an annual effect on the economy of \$100 million or more, or to have other significant adverse impacts on the national economy.

This rule was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

Under Section 307(b)(1) of the Clean Air Act, as amended, 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), the requirements which are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by the EPA to enforce these requirements.

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

Dated: October 29, 1981.

Anne M. Gorsuch,
Administrator.

Note.—Incorporation by reference of the State Implementation Plan for the State of Missouri was approved by the Director of the Federal Register on July 1, 1981.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

Subpart AA—Missouri

1. Section 52.1320 is amended by adding a new paragraph (c)(33) to read as follows:

§ 52.1320 Identification of plan.

(c) The plan revisions listed below were submitted on the dates specified.

(33) On September 5, 1980, the Missouri Department of Natural Resources submitted a revision of Missouri Rule 10 CSR 10-3.050, Restriction of Emission of Particulate Matter from Industrial Processes, which exempts existing Missouri type charcoal kilns from the Rule.

[FR Doc. 81-31976 Filed 11-3-81; 8:45 am]
BILLING CODE 6560-38-M

DEPARTMENT OF ENERGY

41 CFR Parts 9-1, 9-3, 9-4, 9-7, 9-9, 9-15, 9-16, 9-23, and 9-50

Procurement Regulations Amendments

AGENCY: Department of Energy.

ACTION: Final rule.

SUMMARY: The rule revises the Department of Energy Procurement Regulations (DOE-PR) by adding incentive clauses for fixed price incentive, cost plus incentive, and cost plus award fee contracts; adding a new subpart entitled Multiple Awards—Phase Procurements, deleting the requirement for approval by the Senior Procurement Official for use of the Alternate Late Proposals clause provided by FPR 1-3.802.2, deleting references to the now dissolved Renegotiation Board, changing some procedures for reviews of contractor procurement systems, and other minor changes. Operational experience has revealed the need to modify certain sections for purposes of clarity and to update others to accommodate changes in the FPR and OMB circulars.

EFFECTIVE DATE: December 4, 1981.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard B. Langston, Policy and Procedures Division (PR-211), Procurement and Assistance Management, (202) 252-8188

Mr. E. Barclay Van Doren, Deputy Assistant General Counsel for Procurement and Financial Incentives, Office of the General Counsel, (202) 252-6902

SUPPLEMENTARY INFORMATION:

- I. Background
- II. Statutory and Regulatory Information
- III. Public Comments

I. Background

Under Section 644 of the Department of Energy Organization Act (hereinafter referred to as the Act) (Pub. L. 95-91, 91 Stat. 585, 42 U.S.C. 7254), the Secretary of the Department is authorized to prescribe such procedural rules and regulations as he may deem necessary or appropriate to effectuate the functions vested in him. Accordingly, the DOE-PR was promulgated with an effective date of June 30, 1979 (44 FR 34434, June 14, 1979). Operational experience has revealed the need to modify certain sections for purposes of clarity and to update others to accommodate changes in the FPR and OMB circulars.

This final rule finalizes activity begun by the Department's notices of proposed

rulemaking published on January 5, 1981, at 46 FR 959, and on February 17, 1981, at 46 FR 12646. The amendments adopted in this final rule are the same as proposed in the notices of proposed rulemaking except for the changes noted below in response to comments received. In addition, this rulemaking is continued with respect to 9-3.805-1 because this section requires further analysis by DOE.

II. Statutory and Regulatory Requirements

The DOE Procurement Regulations are authorized under Section 644 of the Department of Energy Organization Act, Pub. L. 95-91.

The Department has concluded that the rule will not have a significant economic impact on a substantial number of small entities and that the requirements, of the Regulatory Flexibility Act, Pub. L. 96-354, for a regulatory flexibility analysis is not applicable.

The Department notes that the rule is a procurement rule and is, accordingly, exempt from the special OMB clearance procedures required by Executive Order 12291 of February 17, 1981, entitled Federal Regulations.

The Department has also concluded that the regulation will not affect the quality of the environment and that the requirements of section 7(c)(2) of the Federal Energy Administration Act of 1974, Pub. L. 93-275, do not apply.

III. Public Comments

No comments were received regarding the Department's January 5, 1981, notice of proposed rulemaking published at 45 FR 959. Comments were received from 12 parties as a result of the Department's publication of a notice of proposed rulemaking at 46 FR 12646 on February 17, 1981. A summary of the significant comments is set forth below together with the Department's actions regarding the comments.

(1) One reviewer suggested that use of the Organizational Conflicts of Interest clause set forth at § 9-1.5408-2 for use in subcontracts should only be required for those subcontracts deemed to be major or significant and suggested that a dollar threshold be established for its applicability.

This suggestion cannot be accommodated as neither Pub. L. 95-39 nor Pub. L. 95-91 provided for such a limitation of applicability.

(2) Another reviewer suggested clarification of clause's text regarding applicability at § 9-1.5408-2.

This suggestion was adopted and the text of the clause has also been changed

by the addition of an explanatory prefix to the first sentence of paragraph (d)(2).

(3) A reviewer suggested that the fee determination provided by § 9-3.405-50(h)(2) should be subject to appeal under the disputes clause and another suggested that the alterations of General Provisions clauses should be reflected in Subpart 9-7 as well.

The first suggestion will not be adopted as it is contrary to the basic philosophy of the use of an award fee. Poor performance under an award fee contract is penalized by a lower or no award fee. In such a situation the contractor's management should be focused on improving contract performance rather than further diverting its attention by engaging in a dispute. The latter suggestion has been adopted and the clause alterations will be described in Subpart 9-7.

(4) A DOE small purchases Contracting Officer pointed out several advantages in retaining DOE Form PR 103(b) for purchase and delivery orders rather than adopting Standard Form 147 for this purpose as had been proposed. Among the advantages is that the DOE Form includes additional general provisions not included on SF 147 which would have to be incorporated by the addition of a continuation sheet, if the Standard Form were adopted. The manner in which the DOE form is printed, i.e., 10 copies with interleaved carbon paper, also greatly reduces the time and expense of distribution.

In consideration of these advantages, the Department will continue to use the DOE Form PR 103(b) for purchase and delivery orders.

(5) The Department had proposed changes at § 9-3.805-1 which clearly promoted the use of best and final offers in preference to the limited discussions selection procedure, except under stated circumstances, and defined best and final offers as fully definitized contract documents executed by the offerors. The Department received several comments suggesting that carrying best and final offers through to the point of contract documents executed by all offerors in the competitive range on a routine basis would increase leadtime and administrative expenses beyond any benefit that might be seen. The Department has decided to defer the proposed change pending further analysis.

(6) A comment was received that § 9-4.5001(a) was being too specific when it provided for options as a means of obtaining proposals for subsequent phases of multiple award-phased procurements and that counsel should not be a mandatory member of the evaluation team.

The Department recognizes that the use of an option provision to obtain proposals for subsequent phases is but one of several alternatives available and will delete the reference to options in this paragraph and make the degree of involvement of counsel discretionary.

(7) Several reviewers found use of the term "initial period" to be confusing and inconsistent as it is used in DOE-PR 9-4.5107-1(a).

The Department accepts these views and has rewritten the paragraph, accordingly, as well as the accompanying clause at 9-16.5002-1. The Department has also updated § 9-4.5107-1(f) to recognize the more recent cost principals for non-profit institutions established by FPR 1-15.6, 41 CFR 1-15.6.

(8) It was noted that any change to § 9-4.5702 regarding use of the late proposals clause for Program Opportunity Notices (PON) is equally applicable to use of the late proposals clause for Program Research and Development Announcements (PRDA). Accordingly, this change will also be made at §§ 9-4.5802-3(10) and 9-4.5804(a)(2) to assure consistency.

(9) Concern was expressed that the procedure described at § 9-4.5901(e), whereby each paying party in a three party contract would independently pay their shares directly to the performing party, might not always be practicable.

The Department will accommodate this concern by adding an additional sentence which provides that an alternate provision may be made, if approved by the DOE Controller or his designee, in advance of its use.

(10) It was noted that the proposal to change "proprietary nature" to "proprietary" at both places it appears in § 9-9.202-3(e)(2) paragraph (b)(ii) did not appear correct.

The Department has corrected this to substitute the word "propriety", instead of "proprietary."

(11) A comment noted that § 9-4.5112-4, as well as Article A-II(a)(2) of Appendix A and Article XXX of Appendix B to § 9-16.5002-1, should be changed to conform to OMB Circular A-21.

The change has been made.

(12) A comment was received to the effect that the changes made at § 9-50.303 should also be made at § 9-50.304 for consistency.

The Department has decided to not make the change at § 9-50.303 which had been proposed and thus no change is needed at § 9-50.304.

(13) Comments were received regarding numerous erroneous citations of procurement regulations section.

The Department has corrected these erroneous citations.

(14) The Department has also deleted § 9-15.205-60 in order to comply with FPR Temporary Regulation 81.

For the reasons set out in the preamble, Chapter 9 of Title 41, Code of Federal Regulations, is amended as follows:

Issued in Washington, D.C., on October 27, 1981.

Hilary J. Rauch,

Director, Procurement and Assistance Management.

41 CFR Chapter 9 is amended as follows:

The authority citation for Chapter 9 reads as follows:

Authority: Sec. 644, Department of Energy Organization Act, Pub. L. 95-91, 91 Stat. 565 (42 U.S.C. 7254).

PART 9-1—GENERAL

§ 9-1.051 [Amended]

By revising paragraph (c) of § 9-1.051-1 to read as follows: "Acquisition Letters—to provide guidance to DOE personnel on internal procedures which are not suitable for publication in this regulation" and by revising § 9-1.051-4 to read as follows:

§ 9-1.051-4 Acquisition Letters (AL)

(a) In accordance with the authority in § 9-1.051-1 above, the Senior Procurement Official, Headquarters, or designee, may issue Acquisition Letters from time to time. They will remain in effect until cancelled.

(b) Acquisition Letters will be identified by the prefix letters "AL" followed by the last two digits of the calendar year in which issued and will be numbered consecutively. For example, the control number of the first letter issued in calendar year 1979 will be AL 79-1. When appropriate, the applicable subpart of the DOE-PR will be identified in the subject line.

§ 9-1.1003 [Amended]

By amending § 9-1.1003 by adding "(a)" at the beginning of the first paragraph and by adding the following paragraph:

(b) The file shall contain a reference to the applicable exceptions of FPR 1-1.1003-2(a)(1)-(10) when a proposed procurement is not synopsisized pursuant to one of the Federal Procurement Regulations exceptions.

§ 9-1.1203 [Amended]

By adding the following as the first sentence in paragraph (d) of § 9-1.1203-2: "Have adequate financial resources."

§ 9-1.5408-2 [Amended]

By revising the clause title in paragraph (b) to read "Organizational Conflicts of Interest—Special Clause".

By amending paragraph (d) of the clause by setting forth the entire text following the heading "Subcontracts" as subparagraph (1) and by adding the following as a new subparagraph (2):

(d) * * *

(2) If a subcontract is to be issued for evaluation services or activities, technical consulting or management support services work as defined at § 9-1.5403(d), the contractor shall obtain for the Department a disclosure statement or representation, in accordance with DOE regulations in effect at the time, from each intended subcontractor or consultant. The contractor shall not enter into any subcontract nor engage any consultant unless the Contracting Officer shall have first notified the contractor that there is little or no likelihood that an organizational conflict of interest exists or that despite the existence of a conflict of interest the award is in the best interest of the Government.

§ 9-1.5409 [Amended]

By amending § 9-1.5409(a) by adding the following sentence immediately after the second sentence: "When formal source evaluation board procedures are applicable, the finding shall be made by the Source Selection Official."

PART 9-3—PROCUREMENT BY NEGOTIATION**§ 9-3.405 [Amended]**

By amending § 9-3.405-50 to add the following new paragraph (h):

(h) Contract coverage and provisions.

(1) The required FPR and DOE-PR cost reimbursement clauses set forth in §§ 9-7.2 and 9-7.4 are required for Award Fee Contracts. Modifications however should be made in the Allowable Cost, Fee and Payment clause, the Limitations of Funds clause and Changes clause as follows:

(i) The words "base fee and award fee" should be substituted for the term "fixed-fee" where it appears in paragraph (a) of the clause entitled Changes. (FPR 1-7.202-2).

(ii) The words "base fee" should be substituted for the work fee in paragraph (g) of the clause entitled "Limitation of Funds." (FPR 1-7.202-3(b)) and "Limitation of Costs" (FPR 1-7.202-3(b)).

(iii) The term "base fee" should be substituted for the term "fixed fee" or "fee" wherever they appear in the clause entitled "Allowable Cost, Fee, and Payment", except in (a)(2) of that clause which should be changed to read "such base fee, if any, and such

additional fee as may be awarded as provided for in the schedule." (FPR 1-7.202-4, as modified by DOE-PR 9-7.202-4).

(2) In addition to the changes in the general provisions as required in paragraph (h)(1) of this section, the ARTICLES shown below should be included in the schedule of award fee contracts. Modifications to these provisions may be made to meet individual situations and any ARTICLE or specific requirement therein should be deleted when it is not applicable to a given contract. If substantial changes are believed appropriate, consultation with the Office of Procurement Policy—DOE Headquarters, is advisable.

Article (Insert Article Number)—Estimated Cost, Base Fee, and Award Fee

The estimated cost of this contract is \$ (Insert Amount). A base fee of \$ (Insert Amount) is payable in accordance with the ARTICLE entitled "Payment of Base and Award Fee". In addition a maximum Award Fee of \$ (Insert Amount) is available for payment in accordance with the ARTICLE entitled "Payment of Base and Award Fee".

Article (Insert Article Number)—Payment of Base and Award Fee

Base Fee. The government will make payment of the base fee in (Insert Number) increments. The amount payable shall be based on the progress as determined by the Contracting Officer and shall be subject to any withholdings as may be provided for elsewhere in this contract.

Award Fee. The government will promptly make payment of any Award Fee upon the submission, by the contractor to the Contracting Officer or his authorized representative, of a public voucher or invoice in the amount of the total fee earned for the period evaluated. Payment shall be made without the need for a contract modification.

Article (Insert Article Number)—Determination of Award Fee Earned

A. The government shall at the conclusion of each specified evaluation period(s) evaluate the contractor's performance for a determination of award fee earned. The contractor agrees that the determination as to the amount of award fee earned will be made by the government Fee Determination Official (FDO) and such determination concerning the amount of award fee earned is binding on both parties and shall not be subject to appeal under the "Disputes" clause or to any other appeal clause.

B. It is agreed that the evaluation of contractor performance shall be in accordance with the Performance Evaluation Plan referenced in the ARTICLE entitled "Performance Evaluation Plan" and that the contractor shall be promptly advised in writing of the determination, and the reasons why it was or was not earned. It is further agreed that the contractor may submit a self-evaluation of performance for each period under consideration. While it is recognized that the basis for determination of the fee shall be the evaluation by the government,

any self-evaluation which is received within (Insert Number) days after the end of the period being evaluated, may be given such consideration, if any, as the FDO shall find appropriate.

C. The FDO may, in his sole discretion, specify in any fee determination that fee not earned during the period evaluated may be accumulated and be available for allocation and/or award in future evaluation periods. When such a determination is made the Article entitled "Distribution of Award Fee" shall be adjusted to reflect such allocations.

Article (Insert Article Number)—Performance Evaluation Plan

A. A contractor Performance Evaluation Plan upon which the determination of award fee shall be based, including the criteria to be considered under each area evaluated and the percentage of award fee, if any, available for each area, will be unilaterally established by the government. A copy of the plan shall be provided to the contractor (Insert Number) calendar days prior to the start of the first evaluation period.

B. The Performance Evaluation Plan shall set forth the criteria upon which the contractor will be evaluated for performance relating to any (1) Technical, (2) Management, and (3) Cost Functions selected for evaluation.

C. The Performance Evaluation Plan may, consistent with the contract, be revised unilaterally by the government at any time during the period of performance. Notification of such changes shall be provided to the contractor (Insert Number) calendar days prior to the start of the evaluation period to which the change will apply.

Article (Insert Article Number)—Distribution of Award Fee

A. The total amount of award fee available under this contract is assigned to the following evaluation periods in the following amounts:

Evaluation Period**Available Award Fee**

B. In the event of contract termination, either in whole or in part, the amount of award fee available shall represent a pro rata distribution associated with evaluation period activities or events as determined by the Fee Determination Official.

§ 9-3.805-51 [Amended]

By amending § 9-3.805-51(d)(2)(ii) by adding the following immediately after the word "authority": "or which exceed \$5,000,000,".

§ 9-3.809 [Amended]

By amending § 9-3.809(d)(1)(i) by removing the following immediately after the word "waived": "only by the Head of the Procuring Activity or designee of the Senior Procurement Official, Headquarters and then only whenever" and by substituting therefore "at a level above the Contracting Officer when."

PART 9-4—SPECIAL TYPES AND METHODS OF PROCUREMENT

By amending the Table of Contents for 9-4.50 by removing the word "Reserved" and substituting the following therefore: "Multiple Awards—Phased Procurements" and adding a new entry 9-4.5906 "Payments under contracts with Third Party Cost Contributions." The revisions reads:

Subpart 9-4.50—Multiple Awards—Phased Procurements

Sec.
9-4.5000 Scope of Subpart.
9-4.5001 RFP Provisions.
9-4.5002 Evaluation.

9-4.5906 Payments under contracts with third party cost contributions.

§ 9-4.909 [Amended]

By amending § 9-4.909(g) by adding the following as the last sentence:

(g) * * * For those programs where the acceptance of unsolicited proposal authority has been formally delegated to a field office, justifications for acceptance of unsolicited proposals which exceed the dollar limit of the Head of the Procuring Activity's (HPAs) contracting authority or \$5,000,000, whichever is less, shall be submitted with HPA recommendations to the cognizant Headquarters program office for approval as if it were initiated at Headquarters.

Subpart 9-4.50 [Amended]

By amending Subpart 9-4.50 by removing the word "RESERVED" immediately following "Subpart 9-4.50" and substituting the following therefore:

Subpart 9-4.50—Multiple Awards—Phased Procurements

§ 9-4.5000 Scope of Subpart.

Some projects lend themselves to the use of multiple phase parallel contracts. The basic decision in regard to the use of multiple awards for phased procurements will be made by the program office based on technical, schedule, and cost considerations. In the first phase, more than one contractor may undertake a design effort. For the second and succeeding phases, one or more contractors may then be selected from the preceding phase's participants. Since there is an important selection decision to be made at the end of any phase, explicit evaluation and selection procedures will be made known to the contractors prior to competitive selection for succeeding phases.

§ 9-4.5001 RFP provisions.

Where multiple awards for phased procurements are contemplated, requests for proposals (RFPs) for the initial phase should include:

(a) Notice that the initial negotiated contract will be for Phase I only; however, the Government reserves the right to require, a proposal(s) for additional phases of the project as defined in the provisions of the RFP.

(b) If appropriate, notice that competitions on subsequent phases will be restricted to the Phase I contractor(s).

(c) Evaluation and qualification criteria should not ordinarily be restricted to Phase I consideration only, but rather should be designed to assure that selected offerors have the requisite technical, management, and financial capacity to compete for and perform all phases.

(d) A requirement that each contractor submit a proposal to perform subsequent phases. Instructions for proposal submission and the evaluation criteria to be used in the selection of contractor(s) for subsequent phases will be provided to the Phase I contractors, by letter(s), as early as possible and at least 90 days prior to the date for submission of proposals.

(e) A requirement for each Phase I, or subsequent phase, contractor to submit a comprehensive report covering actual and projected accomplishments under the present phase. This information will be used in addition to the proposal and the Government's assessment of contractor performance in the evaluation and selection process for subsequent phases. The report should, as a minimum, address the technical, schedule, and cost aspects of the phase of work now under contract.

§ 9-4.5002 Evaluation.

(a) The contracting officer or other source selection officials as appropriate, shall establish an evaluation team sufficiently in advance of the Phase II proposal due date. The evaluation team shall consist of a chairman from the program office and representatives of procurement and other DOE programmatic or functional areas as appropriate. Counsel will be included as a non-voting advisory member of the evaluation team as deemed appropriate.

(b) The evaluation team will develop the evaluation criteria and proposal instructions to be furnished to the contractors. The purpose of the evaluation is to select that or those companies which best satisfies the DOE requirements for successful completion of the project. The evaluation shall consider such factors as technical, price, programmatic and other requirements.

The evaluation process shall be accomplished in an impartial, equitable, comprehensive, and timely fashion to assure the selection of one or more organizations, which offer the best possibility for successful performance, cost and other factors considered. It is contemplated that the initial phase of multiphase parallel contracts awarded under these procedures will be performed in the same timeframe so that a single competitive evaluation and selection can be accomplished at one point in time. Accordingly, the contracts should contain provisions permitting the Government to synchronize contractor Phase I performances through acceleration or deceleration, as is appropriate, to achieve simultaneous completion of the Phase I activities by all firms under consideration. A thorough and detailed evaluation shall be completed so as to provide the basis on which the best selection can be made.

§ 9-4.5107-1 [Amended]

By amending § 9-4.5107-1(a) by removing the following: "generally an annual period; the initial support ceiling will be the amount of DOE support made available in connection with the initial contract period." and substituting therefore: "The total contract period of performance should be established based upon the estimated period of performance necessary to accomplish the research effort. If available funding is less than that needed to fully fund the effort, the available funding will be provided as the cumulative Government cost as defined at Article A III (b) of § 9-16.5002-1 with the remainder of the funding subject to the availability of funds. In such circumstances the standard Special Research Contract format provided at § 9-16.5002-1 should be revised at Article II—The Period for Performance to indicate the period of time for which the available funding is estimated to suffice and at Article A-III to show the additional funding to be provided subject to the availability of funds."

§ 9-4.5107-1 [Amended]

a. By amending § 9-4.5107-1(b) at subparagraph (3) by removing "Government ceiling." and substituting "cumulative Government cost or the Government ceiling whichever is less."

b. By amending 9-4.5107-1(f) by removing the present text and substituting "If the special research contract outlined at § 9-16.5002-1 is to be used for not-for-profit organizations other than educational institutions, Article B-XXIX, Determination of

Support Cost, should be revised to provide that the cost principles at FPR 1-15.2, 1-15.6, or 1-15.7 as supplemented or modified by DOE-PR 9-15, will be used, depending on the organizational characteristics of the contractor, in determining actual cost or the contract may be revised at the direction of the cognizant Headquarters office to provide for a lump-sum payment to the contractor in consideration for its performance of particular research at a specified level of effort."

§ 9-4.5108-2 [Amended]

By amending § 9-4.5108-2(e) by removing "Article B-II" and substituting therefore "Article B-IX."

Section 9-4.5112-4 is amended by removing the text of paragraphs (a) (3), (4) and (7) substituting the following:

§ 9-4.5112-4 Approval of deviations in performance and other specified actions.

(a) * * *

(3) Acquisition of an item of equipment not itemized in the contract, the cost of which is \$1,000 or more. Prior approval is required. Approval is not required if the equipment is merely a different model of an item listed in the contract. If plant and capital equipment funds are provided for the acquisition of equipment, with title to be vested in the Government, the total cost of such equipment shall not exceed the amount provided for such equipment unless prior approval has been obtained.

(4) Purchase of any general-purpose equipment, such as office equipment or furniture, air conditioning, automatic data processing equipment, etc., not specifically provided for in Appendix A of the contract. Prior approval is required.

* * * * *

(7) Expenditures for domestic travel if such expenditures exceed the amount shown in Article A-11 (a) for such travel by \$500 or by 25 percent, whichever is greater. Prior approval is required.

* * * * *

Subpart 9-4.57—Program Opportunity Notices for Commercial Demonstrations

§ 9-4.5702 [Amended]

By amending the second sentence of § 9-4.5702-6 by removing the following: "from the Senior Procurement Official, Headquarters." and substituting therefore: "at a level above the Contracting Officer."

Subpart 9-4.58—Program Research and Development Announcements

§ 9-4.5802 [Amended]

Section 9-4.5802-3 is amended at subparagraph (10) by removing "(see FPR 1-3.802-1)" at the end of the sentence and substituting "(see FPR 1-3.802-1 and FPR 1-3.802-2)."

§ 9-4.5804 [Amended]

Section 9-4.5804 is amended at paragraph (a)(2) by removing "from the Senior Procurement Official Headquarters." and substituting "at a level above the Contracting Officer." at the end of the third sentence.

Subpart 9-4.59—Cost Participation [Amended]

A new § 9-4.5906 "Payments under contracts with third party cost contributions" is added. The text will read:

§ 9-4.5906 Payments Under Contracts With Third Party Cost Contributions.

Arrangements between DOE and non-Government organizations for jointly sharing the cost of projects performed by third party contractors shall provide that each party to the cost sharing agreement shall pay its share of program costs directly to the performing contractor. Any alternative arrangement must be approved in advance by the Controller or designee.

PART 9-7—CONTRACT CLAUSES

Part 9-7 Table of Contents [Amended]

By amending the Table of Contents for Part 9-7.

By adding the following:

Sec.

9-7.102-56 Incentive Price Revision (Firm Target).

9-7.202-2 Changes.

9-7.202-3 Limitation of Cost or Funds.

9-7.302-59 Incentive Price Revision (Firm Target).

9-7.402-2 Limitation of Cost or Funds.

9-7.404-5 Changes.

By removing and reserving §§ 9-7.102-51, 9-7.202-51, 9-7.302-51, 9-7.402-51, 9-7.602-52, 9-7.703-51, 9-7.802-51 in the Table of Contents.

§ 9-7.102-51 [Reserved]

By removing and reserving § 9-7.102-51 Renegotiation.

By adding a new § 9-7.102-56 to read as follows:

§ 9-7.102-56 Incentive Price Revision Clause—Firm Target.

When a fixed-price incentive contract described in FPR 1-3.404-4(a)(2) is used, the following clause shall be made a

part of the contract. As to each item which is subject to incentive price revision, the contract schedule shall set forth the target cost, target profit, and target price.

Incentive Price Revision (Firm Target)

(a) *General.* The supplies or services identified in the Schedule as items (Identify) are subject to price revision in accordance with the provisions of this clause: *Provided*, That in no event shall the total final price of such items exceed (Insert Written Amount) dollars (Insert Amount). Any supplies or services which are to be ordered separately under, or otherwise added to, this contract and which are to be subject to price revision in accordance with the provisions of this clause, shall be identified as such in a modification to this contract.

(b) *Definition of Cost.* For the purpose of this clause, "cost" or "costs" means allowable costs in accordance with Part 1-15.2 (41 CFR 1-15.2) of the Federal Procurement Regulations, as supplemented or modified by DOE-PR 9-15.2 (41 CFR 15.2), in effect on the date of this contract.

(c) *Submission of Data.* Within (Insert written number of days) (Insert number of days) days after the end of the month in which the Contractor has delivered the last unit of supplies and completed the services called for by those items referred to in paragraph (a) of this section, the Contractor shall submit, on Optional Form 60 or such other form as the Contracting Officer may require, (i) a detailed statement of all actual costs incurred up to the end of that month in performing all work under such items, (ii) an estimate of costs of such further performance, if any, as may be necessary to complete performance of all work with respect to such items, and (iii) a list of all residual inventory and an estimate of the value thereof (the Contracting Officer will determine whether to reduce the final negotiated cost by the value of the residual inventory or whether the Government will take title to the residual inventory with no reduction to the final negotiated cost for the value of the residual inventory).

(d) *Price Revision.* Upon submission of the data required by paragraph (c) of this section, the Contractor and Contracting Officer shall promptly establish the total final price in accordance with the following:

(1) On the basis of the information required by paragraph (c) of this section, together with any other pertinent information, there shall be established by negotiation the total final cost incurred or to be incurred for the supplies delivered (or services performed) and accepted by the Government, which are subject to price revision under this clause.

(2) The total final price shall be established by adjusting the total final negotiated cost by an amount for profit or loss determined as follows:

When the total final negotiated cost is	The adjustment for profit or loss is
Equal to the total target cost.	Total target profit.
Greater than the total target cost.	Total target profit less — percent (— %) of the amount by which the total final negotiated cost exceeds the total target cost.
Less than the total target cost.	Total target profit plus — percent (— %) of the amount by which the total final negotiated cost is less than the total target cost.

(3) The total final price of the item(s) referred to in paragraph (a) of this section shall be evidenced by a modification to this contract signed by the Contractor and the Contracting Officer. Such price shall not be subject to revision notwithstanding any changes in the cost of performing the contract, with the following exceptions:

(i) insofar as the parties may agree in writing, prior to the determination of the total final price, (A) to exclude any specific elements of cost from the total final price and (B) to adopt a procedure covering subsequent disposition of such elements; and

(ii) to the extent any adjustment or credit is expressly permitted or required by this or any other clause of this contract.

(e) *Subcontracts.* No subcontract placed under this contract shall provide for payment on a cost-plus-a-percentage-of-cost basis.

(f) *Adjustment of Payments.* Pending execution of the contract modification referred to in subparagraph (d)(3) of this section, the Contractor shall submit invoices or vouchers in accordance with billing prices as provided in this paragraph. The billing prices shall be the target prices set forth in this contract; *Provided*, That if at any time it appears that the then current billing prices will be substantially greater than the estimated final price in light of information provided by the Contractor in accordance with provisions of paragraph (g)(2) of this section, a reduction in the billing prices shall be negotiated. Similarly, the parties may negotiate an increase in billing prices by any or all of the difference between the target price and the ceiling price upon submission of factual data from the Contractor showing that final cost under this contract will be substantially greater than target cost. Any adjustment of billing prices shall be reflected in a modification to this contract, and shall not affect the determination of the total final price under paragraph (d) of this section. After execution of the contract modification referred to in paragraph (d)(3) of this section, the total amount paid or to be paid on all invoices or vouchers shall be adjusted to reflect the total final price and any additional payments, refunds, or credits, resulting therefrom shall be promptly made.

(g) *Limitation on payments.* (1) This paragraph (g) shall not apply after final price revision.

(2) Within forty-five (45) days after the end of each quarter of the Contractor's fiscal year, beginning with the quarter in which a delivery is first made (or services are first performed) and accepted by the Government under this contract, and as of the end of each subsequent quarter the Contractor shall submit to the Contracting Officer a cumulative statement setting forth:

(i) The total contract price of all supplies delivered (or services performed) and accepted by the Government for which final prices have been established;

(ii) The total cost (estimated to the extent necessary) reasonably incurred for and properly allocable solely to the supplies delivered (or services performed) and accepted by the Government for which final prices have not been established;

(iii) That portion of the total target profit which is in direct proportion to the supplies delivered (or services performed) and accepted by the Government for which prices have not been established, increased or decreased in accordance with incentive profit formula set forth in paragraph (d)(2) of this section when the amount of cost stated under paragraph (g)(2)(ii) of this section differs from the aggregate target cost of such supplies or services; and

(iv) The total amount of all invoices or vouchers for supplies delivered (or services performed) and accepted by the Government (including amount applied or to be applied to liquidate progress payments).

(3) Notwithstanding any provision of this contract authorizing greater payment, if on any quarterly statement the amount of (g)(2)(iv) of this section exceeds the sum of paragraph (g)(2) (i), (ii), and (iii) of this section, the contractor shall immediately refund or credit to the Government against existing unpaid invoices or vouchers covered by such statement the amount of such excess less (i) the cumulative total of any previous refunds or credits under this clause (exclusive of any tax credits under Section 1481 of the Internal Revenue Code of 1954) and (ii) any applicable tax credits under Section 1481 of the Internal Revenue Code of 1954. If any portion of such excess has been applied to the liquidation of progress payments, such amount (less all tax credits under the Internal Revenue Code) may be added or restored to the unliquidated progress payment account, to the extent consistent with the "Progress Payments" clause of this contract, instead of direct refund thereof.

(4) The Contractor shall (i) insert in each price redetermination or incentive price revision subcontract hereunder the substance of this paragraph (g), including this subparagraph (4), modified to omit mention of the Government and reflect the position of the Contractor as purchaser and of the subcontractor as vendor, and to omit that portion of subparagraph (g)(3) relating to tax credits, and (ii) include in each cost-reimbursement subcontract hereunder a requirement that each price redetermination and incentive price revision subcontract thereunder will contain the substance of this paragraph (g), including this subparagraph (4) modified as provided in paragraph (g)(4)(i) of this section.

(h) *Disagreements.* If the Contractor and the Contracting Officer fail to agree upon the total final price within 60 days after the date on which the data required by (c) of this section are to be submitted, or within such further time as may be specified by the Contracting Officer, such failure to agree shall be deemed to be a dispute concerning a question of fact within the meaning of the

"Disputes" clause of this contract and the Contracting Officer shall promptly issue a decision thereunder.

(i) *Termination.* If this contract is terminated prior to establishment of the total price, prices of supplies or services subject to price revision under this clause shall be established pursuant to this clause for (1) completed supplies accepted by the Government, and services performed and accepted by the Government, and (2) in the event of a partial termination, supplies and services which are not terminated. The termination shall be otherwise accomplished pursuant to other applicable provisions of this contract.

(j) *Equitable Adjustment Under Other Clauses.* If an equitable adjustment in contract price is made under any other clause of this contract before the total final price is established, the adjustment shall be made in the total target cost and may be made in the maximum dollar limit on the total final price, the total target profit or both. If such an adjustment is made after the total final price is established, adjustment shall be made only in the total final price.

(k) *Exclusion from Target Price and Total Final Price.* Whenever any clause of this contract provides that the contract price does not or will not include an amount for a specific purpose, such provision shall mean that neither any target price nor the total final price includes or will include any amount for such purpose.

(l) *Separate Reimbursement.* The cost of performance of an obligation that any clause of this contract expressly provides is at Government expense shall not be included in any target price or in the total final price, but shall be reimbursed separately.

(m) *Taxes.* As used in the "Federal, State, and Local Taxes" clause of this contract or any other clause of this contract that provides for certain taxes or duties to be included in, or excluded from, the contract price, the term "contract price" includes the total target price, or if it has been established, the total final price. When a provision in such clause or clauses requires that the contract price be increased or decreased as a result of changes in the obligation of the Contractor to pay or bear the burden of certain taxes or duties, such increase or decrease shall be made in the total target price or, if it has been established in the total final price, so as not to affect the contractor's profit or loss on this contract.

§ 9-7.103-3 [Amended]

By removing the following from paragraph (e) of § 9-7.103-3: "Substitute the words 'unless the DOE authorizes their prior disposition' for the words 'or such lesser time specified in either Appendix M of the Defense Acquisition Regulations or the Federal Procurement Regulations Part 1-20, as appropriate' in paragraphs (b) and (c)."

§ 9-7.103-53 [Amended]

By removing in paragraph (f) of § 9-7.103-53 "Executive Order 11652" and

substituting therefore: "Executive Order 11652 as amended."

§ 9-7.104-50 [Amended]

By amending the clause in § 9-7.104-50 entitled "Priorities, Allocations, and Allotments" by removing the words: "Domestic and International Business Administrations" and substituting therefore "Industry and Trade Administration."

§ 9-7.202 [Amended]

By adding a new § 9-7.202-2 to read:

§ 9-7.202-2 Changes.

If the contract is a cost plus award fee type, the references to fixed fee in the clause set forth at FPR 1-7.202-2 should be modified to read base fee and award fee.

§ 9-7.202-4 [Revised]

By removing the entire text of § 9-7.202-4 and substituting the following therefore:

Insert the clause set forth in FPR 1-7.202-4 modified to add "As supplemented or modified by DOE-PR 9-15.2 (41 CFR 9-15.2)," after the reference (41 CFR 1-15.2) in paragraph (a)(1)(i), in all cost reimbursement type supply contracts which provide for the payment of a fixed fee.

Insert the clause set forth below in all cost reimbursement type supply contracts which provide for an incentive fee arrangement. (When an incentive contract contains an "Indemnification" clause in accordance with § 9-10.50, an item (vi) which reads "any claim, loss, or damage resulting from a risk defined in the contract as unusually hazardous or as a nuclear risk, against which the Government has expressly agreed to indemnify the Contractor," should be added to paragraph (j).)

Allowable Cost, Incentive Fee, and Payment

(a) *Allowable cost and fee.* (1) For the performance of this contract, the Government shall pay to the Contractor:

(i) The cost thereof (hereinafter referred to as "allowable cost") determined by the Contracting Officer to be allowable in accordance with:

(A) Subpart 1-15.2 of the Federal Procurement Regulations (41 CFR 1-15.2), as supplemented or modified by DOE-PR 9-15.2 (41 CFR 9-15.2), in effect on the date of contract; and

(B) The terms of this contract; and

(ii) A fee determined as provided in this contract.

(2) The target cost and target fee of this contract are set forth in the Schedule and shall be subject to adjustment in accordance with (b) and (i) below. As used throughout this contract the terms:

(i) "Target cost" means the estimated cost of this contract initially negotiated, adjusted in accordance with (h) below; and

(ii) "Target fee" means the fee which was initially negotiated, on the assumption that this contract would be performed for a cost equal to the estimated cost of this contract initially negotiated, adjusted in accordance with (i) below.

(b) *Payments.* Payments shall be made to the Contractor when requested as work progresses, but not more frequently than biweekly, in amounts approved by the Contracting Officer. The Contractor may submit to an authorized representative of the Contracting Officer, in such form and reasonable detail as such representative may require, an invoice or public voucher supported by a statement of cost for the performance of this contract and claimed to constitute allowable cost. For this purpose, except as provided herein with respect to pension contributions, the term "cost" shall include only those recorded costs which result, at the time of the request for reimbursement, from payment by cash, check, or other form of actual payment for items or services purchased directly for the contract, together with (when the Contractor is not delinquent in payment of costs of contract performance in the ordinary course of business) costs incurred, but not necessarily paid, for materials which have been issued from the Contractor's stores inventory and placed in the production process for use on the contract, for direct labor, for direct travel, for other direct in-house costs, and for properly allocable and allowable indirect costs, as shown by records maintained by the Contractor for purposes of obtaining reimbursement under government contracts, plus the amount of progress payments which have been paid to Contractor's subcontractors under similar cost standards. In addition, when pension contributions are paid by the Contractor to the retirement fund less frequently than quarterly, accrued costs therefore shall be excluded from indirect costs for payment purposes until such costs are paid. If pension contributions are paid on a quarterly or more frequent basis, accruals therefore may be included in indirect costs for payment purposes: *Provided*, That they are paid to the fund within thirty (30) days after the close of the period covered. If payments are not made to the funds within such 30-day periods, pension contribution costs shall be excluded from indirect costs for payment purposes until payment has been made. The restriction on payment for items or services purchased directly for the contract shall not apply where the Contractor is a small business concern.

(c) *Amounts Withheld.* Promptly after receipt of each invoice or voucher and statement of costs, the Government shall, except as otherwise provided in this contract, subject to the provisions of (d) below, make payment thereon as approved by the Contracting Officer. Normally, payment of fee shall be made to the Contractor as specified in the Schedule. However, when in the opinion of the Contracting Officer, the Contractor's performance or cost indicates that target cost will not be achieved, the Government shall pay on the basis of such lesser fee as may be appropriate. Further, when the Contractor demonstrates that its performance or cost clearly indicates that it

will earn a fee significantly in excess of target fee, the Government may, in the sole discretion of the Contracting Officer, pay on the basis of such higher fee as may be appropriate. After payment of eighty-five percent (85%) of the applicable fee, the Contracting Officer may withhold further payment of fee until a reserve shall have been set aside in an amount which the Contracting Officer considers necessary to protect the interests of the Government, but such reserve shall not exceed fifteen percent (15%) of the total applicable fee or one hundred thousand dollars (\$100,000) whichever is less.

(d) *Audits.* At any time or times prior to final payment under this contract, the Contracting Officer may have the invoices or vouchers and statements of cost audited. Each payment theretofore made shall be subject to reduction for amounts included in the related invoice or voucher which are found by the Contracting Officer, on the basis of such audit, not to constitute allowable cost. Any payment may be reduced for overpayments, or increased for underpayments, on preceding invoices or vouchers.

(e) *Final Payments.* On receipt and approval of the invoice or voucher designated by the Contractor as the "completion invoice" or "completion voucher" and upon compliance by the Contractor with all the provisions of this contract (including without limitation, the provisions relating to patents and the provisions of (f) below, the Government shall promptly pay to the Contractor any balance of allowable cost, and any part of the fee, which has been withheld pursuant to (c) above or otherwise not paid to the Contractor. The completion invoice or voucher shall be submitted by the Contractor promptly following completion of the work under this contract but in no event later than one (1) year (or such longer period as the Contracting Officer may in his discretion approve in writing) from the date of such completion.

(f) *Refunds, Rebates and Credits.* The Contractor agrees that any refunds, rebates, credits, or other amounts (including any interest thereon) accruing to or received by the Contractor or any assignee under this contract shall be paid by the Contractor to the Government, to the extent that they are properly allocable to costs for which the Contractor has been reimbursed by the Government under this contract. Reasonable expenses incurred by the Contractor for the purpose of securing such refunds, rebates, credits, or other amounts shall be allowable cost hereunder when approved by the Contracting Officer. Prior to final payment under this contract, the Contractor and each assignee under this contract whose assignment is in effect at the time of final payment under this contract shall execute and deliver:

(i) An assignment to the Government, in form and substance satisfactory to the Contracting Officer, of refunds, rebates, credits, or other amounts (including any interest thereon) properly allocable to costs for which the Contractor has been

reimbursed by the Government under this contract; and

(ii) A release discharging the Government, its officers, agents, and employees from all liabilities, obligations, and claims arising out of or under this contract, subject only to the following exceptions:

(A) Specified claims in stated amounts or in estimated amounts where the amount are not susceptible of exact statement by the Contractor;

(B) Claims, together with reasonable expenses incidental thereto, based upon liabilities of the Contractor to third parties arising out of the performance of this contract; *Provided, however,* That such claims are not known to the Contractor on the date of the execution of the release; *And provided further,* That the Contractor gives notice of such claims in writing to the Contracting Officer not more than six (6) years after the date of the release or the date of any notice to the Contractor that the Government is prepared to make final payment, whichever is earlier; and;

(C) Claims for reimbursement of costs (other than expenses of the Contractor by reason of his indemnification of the Government against patent liability), including reasonable expenses incidental thereto, incurred by the Contractor under the provisions of this contract relating to patents.

Except as provided in (j) below, payments under the assignment and claims excepted from the release shall be subject to adjustment by reason of the adjustment of fee in accordance with (i) below.

(g) *Order of Precedence.* Any cost incurred by the Contractor under the terms of this contract which would constitute allowable cost under the provision of this clause shall be included in determining the amount payable under this contract, notwithstanding any provisions contained in the specifications or other documents incorporated in this contract by reference, designating services to be performed or material to be furnished by the Contractor at his expense or without cost to the Government.

(h) *Modifications.* When the work under this contract (including any supplies or services which are ordered separately under, or otherwise added to, this contract) is increased or decreased by contract modification or when any equitable adjustment in the target cost is authorized under any other clause of this contract, equitable adjustments in the target cost, target fee, minimum fee, maximum fee or any or all of them, as appropriate, shall be set forth in an amendment or supplemental agreement to this contract.

(i) *Fee Formula.* The fee payable hereunder shall be the target fee increased by (insert contractor's participation) cents for every dollar by which the total allowable cost is less than the target cost or decreased by (insert contractor's participation) cents for every dollar by which the total allowable cost exceeds the target cost. In no event shall the fee be greater than * * * percent nor less than * * * percent, of the target cost; and, except as provided in (j) below, within these limits such fee shall be subject to adjustment, by reason of increase or decrease of total allowable cost, on account of payments

under the assignment required by (f) (i) above, and claims excepted from the release required by (f) (ii) above. If this contract is terminated in its entirety, the portion of the target fee payable shall not be subject to an increase or decrease as provided in this paragraph. The termination shall be otherwise accomplished pursuant to other applicable provisions of this contract.

(j) *Total Allowable Cost.* For the purpose of the adjustment of the fee in accordance with (i) above, the term "total allowable cost" shall not include allowable costs arising out of:

(i) Any of the causes covered by the clause hereof entitled "Excusable Delays" to the extent they are beyond the control and without the fault or negligence of the Contractor or any subcontractor;

(ii) The taking effect, after the negotiation of the target cost of this contract, of a statute, court decision, written ruling, or regulation which results in the Contractor's being required to pay or bear the burden of any tax or duty or increase in the rate thereof;

(iii) Any direct cost attributed to the Contractor's assistance or participation in litigation as required by the Contracting Officer pursuant to a provision of this contract, including the furnishing of evidence and information requested pursuant to the clause hereof entitled "Notice and Assistance Regarding Patent and Copyright Infringement";

(iv) The procurement and maintenance of additional insurance not included in the target cost and required by the Contracting Officer or claims for reimbursement for liabilities to third persons pursuant to the clause hereof entitled "Insurance Liability to Third Persons"; and

(v) Any claim, loss or damage resulting from a risk for which the Contractor has been relieved of liability pursuant to the clause hereof entitled "Government Property."

Except as otherwise specifically provided in this contract, all other allowable costs shall be included in the term "total allowable cost" for the purpose of the adjustment of the fee in accordance with (i) above.

(k) *Documentation.* The total allowable cost and the adjusted fee determined as provided in this clause shall be evidenced by a modification of this contract signed by the Contractor and Contracting Officer.

Insert the clause set forth in FPR 1-7.202-4 as modified above and in accordance with § 9-3.405-50(h) in all cost reimbursement type supply contracts which provide for the payment of a base fee and award fee. Insert the clause set forth in FPR 1-7.202-4 as modified per provisions of FPR 1-7.402-3(b) and as above, in all cost reimbursement type supply contracts that will be without fee and/or a cost sharing contract."

Section 9-7.202-51 "Renegotiation" is removed and reserved. Text will read:

§ 9-7.202-51 [Reserved]

Section 9-7.302-51 "Renegotiation" is removed and reserved. Text will read:

§ 9-7.302-51 [Reserved]

§ 9-7.302-57 [Amended]

By amending the clause entitled "Printing" by removing "8 by 10½" and substituting therefore "8½ by 11."

§ 9-7.302 [Amended]

Section 9-7.302 is amended by adding a new paragraph as follows:

"Section 9-7.302-59 Incentive Price Revision Clause—Firm Target Include the clause set forth in 9-7.102-56 when a fixed price incentive contract described in FPR 1-3.404-4(a)(2) is used."

§ 9-7.402 [Amended]

Section 9-7.402-2 is added to read:

§ 9-7.402-2 Limitation of cost or funds.

If a cost plus incentive fee contract or cost plus award fee contract is involved correct the references to fixed fee at the clause in FPR 1-7.402-2.

§ 9-7.402-3 [Amended]

Section 9-7.402-3 is amended by adding paragraphs (d) and (e) as follows:

"(d) Insert the clause for Incentive contracts set forth in 9-7.202-4 in all cost reimbursement type R&D contracts which provide for an incentive fee arrangement.

(e) Insert the clause set forth in FPR 1.7.202.4 as modified with changes cited in DOE-PR 9-3.405-50(h) and the modification required in § 9-7.202-4 in all cost reimbursement R&D contracts which provide for the payment of a base fee and award fee.

Section 9-7.402-51 "Renegotiation" is removed and reserved. Text will read:

§ 9-7.402-51 [Reserved]

Section 9-7.404-5 is added to read:

§ 9-7.404-5 Changes.

If a cost plus award fee type contract is involved, correct the references to fixed fee in the clause set forth at FPR 1-7.404-5.

Section 9-7.602-52 "Renegotiation" is removed and reserved. Text will read:

§ 9-7.602-52 [Reserved]

Section 9-7.703-51 "Renegotiation" is removed and reserved. Text will read:

§ 9-7.703-51 [Reserved]

§ 9-7.802-5 [Amended]

By amending 9-7.802-5 by removing the text of the Disputes clause and substituting the following:

(a) This contract is subject to the Contract Disputes Act of 1978, 41 U.S.C. 601, et seq., (Pub. L. 95-563).

(b) Except as provided in the Act, all disputes arising under or relating to this contract shall be resolved in accordance with this clause.

(c) (1) As used herein, "claim" means a written demand or assertion by one of the parties seeking, as a legal right, the payment of money, adjustment or interpretation of contract terms, or other relief, arising under or relating to this contract.

(2) A voucher, invoice, or request for payment that is not in dispute when submitted is not a claim for the purposes of the Act. However, where such submission is subsequently not acted upon in a reasonable time, or disputed either as to liability or amount, it may be converted to a claim pursuant to the Act.

(3) A claim by the Contractor shall be made in writing and submitted to the Contracting Office for his decision. A claim by the Government against the Contractor shall be subject to a decision by the Contracting Officer.

(d) For contractor claims of more than \$50,000, the Contractor shall submit with the claim a certification that the claim is made in good faith; the supporting data are accurate and complete to the best of the Contractor's knowledge and belief; and the amount requested accurately reflects the contract adjustment for which the Contractor believes the Government is liable. The certification shall be executed by a senior company official in charge at the Contractor's plant or location involved, or by an officer or general partner of the Contractor having overall responsibility for the conduct of the Contractor's affairs.

(e) For contractor claims of \$50,000 or less, the Contracting Officer must render a decision within 60 days. For contractor claims in excess of \$50,000, the Contracting Officer must decide the claim within 60 days or notify the Contractor of the date when the decision will be made.

(f) The Contracting Officer's decision shall be final unless the Contractor appeals or files a suit as provided in the Act.

(g) The authority of the Contracting Officer under the Act does not extend to claims or disputes which by statute or regulation, other agencies are expressly authorized to decide.

(h) Interest on the amount found due on a contractor claim shall be paid from the date the claim is received by the Contracting Officer until the date of payment.

(i) Except as the parties may otherwise agree, pending final resolution of a claim by the Contractor arising under the contract, the Contractor shall

proceed diligently with the performance of the contract in accordance with the Contracting Officer's decision.

Section 9-7.802-51 "Renegotiation" is removed and reserved. Text will read:

§ 9-7.802-51 [Reserved]

PART 9-9—PATENTS, DATA, AND COPYRIGHTS.

§ 9-9.103-3 [Amended]

By amending § 9-9.103-3(b) to add the following immediately after the word "market" where it appears at the end of the first paragraph: "or will use any parts, components, practices, or methods to the extent to which the Contractor has secured indemnification from liability".

§ 9-9.107-4 [Amended]

By amending § 9-9.107-4(a)(6) by adding the following immediately after the word "contracting" in the first sentence: "or such longer period as may be authorized by the Patent Counsel (with notification by the Patent Counsel to the Contracting Officer) for good cause shown in writing by the contractor or inventor."

§ 9-9.107-5 [Amended]

By amending the Patents Rights (Long Form) Clause appearing in § 9-9.107-5 as follows:

By adding the words "or any variety of plants" after the word "thereof" in paragraph (a)(1) of § 9-9.107-5(a).

By adding "in accordance with applicable statutes and regulations," after the word "granted" in § 9-9.107-5(d)(3).

By adding the following after the word "application" in paragraph (e)(2)(i) of § 9-9.107-5(a): "under (d)(1) of this clause. However, such request shall be."

By removing "(e)(2)(ii)" and substituting "(e)(2)(iii)" in paragraph (g)(1)(ii) of § 9-9.107-5(a).

By adding the following "of this clause from all persons" between "paragraph (l)(1)" and the word "who" in paragraph (l)(2) of § 9-9.107-5(a).

§ 9-9.109-3 [Amended]

By removing the following from § 9-9.109-3(d)(5):

"Represent DOE in patent and other intellectual property matters including those under these regulations" and substituting therefore "Represent DOE in patent, technical data and copyright matters not specifically reserved to the Head of the Agency or designee under these regulations."

§ 9-9.109-6 [Amended]

By amending § 9-9.109-6 as follows:

By adding the following immediately after the word "days" in the fifth sentence of paragraph (d)(8) of § 9-9.109-6: "after notification of denial".

By removing the following paragraph (h)(6)(i)(1) of § 9-9.109-6: "in accordance with paragraph (e)(2)(i) of the clause of § 9-9.107-5(a) and with which is included" and substitute therefore the word "with".

By adding the following immediately after the word "effective" in the second sentence of paragraph (h)(6)(i)(5)(i) of § 9-9.109-6: "or such longer period as may be approved by the Patent Counsel for good cause in writing by the contractor or inventor."

By adding the words "for the life of the patent" immediately following the word "thereafter" in the first sentence of paragraph (i)(7) of § 9-9.109-6.

§ 9-9.202-3 [Amended]

By amending the Rights in Technical Data—Long Form clause set forth in § 9-9.202-3(e)(2) as follows:

By removing the words "proprietary nature" in both places where it appears in paragraph (b)(1)(ii) and substituting therefore: "propriety".

By adding the words "patent counsel with notification to the" before "contracting" in the first sentence of paragraph (c)(1).

By adding the following after the words "paragraph (e)" where they last appear in paragraph (f); "and not furnished under paragraph (g) for the purposes of verifying that such data properly fell within the withholding provision of paragraph (e)".

By changing "its" to "their" at the last line of paragraph (h)(3) of § 9-9.202-3(e)(4).

§ 9-9.202-4 [Amended]

By adding the words "Patent Counsel with notification to the" before the word "Contracting" in paragraph (c)(1) of the "Rights in Technical Data—Facility" clause set forth in § 9-9.202-4(c)(2).

PART 9-15—CONTRACT COST PRINCIPLES AND PROCEDURES [AMENDED].

The Table of Contents for this part is amended by removing paragraph 9-15.205-60, "Facilities capital cost of money (CAS 414)" in order to conform to FPR Temporary Regulation 61. Revised text will read:

§ 9-15.205-60 [Amended]

Section 9-15.205-60, Facilities capital cost of money CAS 414, is amended by removing the section and reserving it.

This change is necessary to comply with new policy established by FPR Temporary Regulation 61, dated May 21, 1981, which establishes a new cost principle recognizing contractor facilities capital cost of money as an allowable cost. The revised entry will read:

§ 9-15.205-60 [Reserved]

PART 9-16—PROCUREMENT FORMS

§ 9-16.50 [Amended]

By adding the following new paragraph to Article A-III of Appendix A to § 9-16.5002-1 "(c) Subject to their availability, additional funds anticipated for the contract . . . \$

Note.—Do not include this provision in fully funded SRCs.

By amending footnote 1 following Article B-II of Appendix B by removing the words "commercial cost principals (FPR 1-15.2 as modified by 9-15)" and substituting "cost principals FPR 1-15.2, 1-15.6, or 1-15.7 as may be modified by DOE PR 9-15 depending on the nature of the Contractor's organization."

By amending Appendix B to § 9-16.5002-1 as follows:

Revised Article B-II, Inspection, Reports, Records and Accounts by removing the reference in paragraph "(c)" to "J.7.b of FMC 73-8" and substituting therefore "J.6 of OMB Circular A-21."

Revise the sentence appearing as (a)(1) under Article B-XI—Payments, to read as follows:

A maximum of 45 percent of the new funds as set forth in Article A-III(b) of the contract following execution of the contract (and following the effectuation of each extended period) upon receipt of a request or requests in writing from the contractor.

Revise Article B-XV—Disputes of Appendix B—General Provisions by removing "Insert the clause in FPR 1-7.102-12" and substitute therefore "Insert the clause in DOE-PR 9-7.802-5."

Article B-XXIV's title is changed from "Utilization of Concerns in Labor Surplus Areas" to "Utilization of Labor Surplus Area Concerns."

Article B-XXX—Additional Approvals of Appendix B of § 9-16.5002-1 is modified by removing the present text of subparagraphs (c), (d) and (g) and substituting the following:

Article B-XXX—Additional Approvals

"(c) Prior Approval is required. Acquisition of an item of equipment not itemized in Appendix A, the cost of which is \$1,000 or

more. Approval is not required if the equipment is merely a different model of an item listed in Appendix A.

(If plant and capital equipment funds are provided for the acquisition of equipment with title to be vested in the Government, the total cost of such equipment shall not exceed the amount provided for such equipment unless prior DOE approval has been obtained.)

(d) Prior approval is required. Purchase of any general-purpose equipment, such as office equipment or furniture, air conditioning, automatic data processing equipment, etc., not specifically provided for in Appendix A.

(g) Prior approval is required. Expenditure for domestic travel if such expenditures exceed the amount shown in Article A-II(a) for such travel by \$500 or by 25 percent, whichever is greater."

Article B-XXXI—Payment of Interest on Contractor Claims is amended by removing "Insert the clause set forth in FPR 1-1.322(b)." and substitute "Reserved."

PART 9-23—SUBCONTRACTING POLICIES AND PROCEDURES

§ 9-23.104 [Amended]

By amending § 9-23.104(b) by removing the following which appears immediately after the word "than": "fixed-price, competitively awarded contracts. (For the purpose of this paragraph, contract modifications are not considered to be competitively awarded.)" and substituting therefor: "prime contracts awarded on the basis of adequate price competition as defined in FPR 1-3.807-1(b)(1). (For the purpose of this paragraph, contract modifications are not considered to be competitively awarded). Contractor Procurement System Reviews, CPSR, should not ordinarily be performed for subcontractors unless, in addition to the criteria for conducting a CPSR on a prime contractor, the following criteria are also satisfied: (a) The preponderance of the sales of the subcontractor is to the Federal Government, and (b) both the prime contractor and the subcontractor agree to the performance of a CPSR."

§ 9-23.107 [Amended]

By amending § 9-23.107(a) by removing the following paragraph (a): "The findings and recommendations of the review team (the CPSR Report) should be reviewed by the Head of the Procuring Activity having cognizance over the contractor and shall be approved by the Director, Office of Procurement Management (attn: PR-32) before the Contracting Officer determines to grant, continue, withhold,

or withdraw approval." and substitute therefor the following: "(a) The findings and recommendations of the review team (the CPSR Report) shall be approved by the Director, Office of Policy (attn: MA-933) before the Contracting Officer determines to continue, grant, withhold, or withdraw approval. Determinations to continue approval after a subsequent review or to revise subcontract consent thresholds under approved systems may be made without submitting a request for approval to Headquarters; however, in these instances an information copy of the material described in (b) shall be submitted."

§ 9-23.108 [Amended]

By amending § 9-23.108(d)(2) by changing the period appearing immediately following the word "competition" to a comma and adding the following "or justification for a noncompetitive procurement." and by removing the following: "Such notification shall be forwarded to the Contracting Officer as soon as the information is known, which normally will be before solicitation."

By amending § 9-23.108(g) by inserting the following immediately after the word "system": "copies of notifications (or contract modifications) altering the subcontract consent dollar thresholds."

§ 9-23.110 [Amended]

By amending § 9-23.110(a) by adding the following immediately after the word "review.": "The surveillance plan must provide for the review and consent to the placement of a representative sample of subcontracts including the largest and most complex subcontracts being issued each year."

PART 9-50—OPERATING AND ONSITE SERVICE CONTRACTS

§ 9-50.302-5 [Amended]

By amending § 9-50.302-5(a)(5)(ii) by removing the entire paragraph and substituting therefor "When a review has been made of the Contractor's procurement system in accordance with Subpart 9-23 and the Contractor's procurement system has been approved, the subcontract dollar thresholds in paragraphs (1) and (2) above may be raised up to the amount of the delegated authority of the Head of the Procuring Activity."

§ 9-50.601 [Amended]

By amending § 9-50.601-1 by removing the text and substituting therefore: "The Buy American Act does not apply to those articles listed in § 9-6.105, or as determined not to be

available in sufficient quantities, in accordance with § 9-50.601-2."

By adding a new § 9-50.601-2 as follows:

§ 9-50.601-2 Determinations of Nonavailability.

(a) Determinations of nonavailability under FPR 1-6.103-2 may be made by the Contracting Officer responsible for the administration of the contract.

(b) When a review has been made of the contractor's procurement system in accordance with Subpart 9-23.1 and the contractor's procurement system has been approved, the Head of the Procuring Activity may authorize the contractor to make determinations of nonavailability for individual items under individual procurement actions. Each authorization shall be in writing and shall specify a dollar value limit for the aggregate of domestically unavailable items in individual procurement actions. Each authorization shall also specify the effective date, the activity, the division or facility authorized to make the determinations, the period the authorization covers, the extent of applicability, and any special conditions or requirements. Authorizations shall be no broader than other authorizations made pursuant to § 9-23.108. Authorizations for dollar value limits in excess of \$25,000 shall require the prior concurrence of the Senior Procurement Official, Headquarters."

§ 9-50.703-4 Examination of Records by the Comptroller General (Amended)

By amending § 9-50.703-4 by adding a Note C which will read:

Note C.—Substitute the words "unless the DOE authorizes their prior disposition" for the words "or such lesser time specified in either Appendix M of the Defense Acquisition Regulations or the Federal Procurement Regulations 1-20, as appropriate" in paragraphs (b) and (c).

§ 9-50.704 (Amended)

By amending § 9-50.704-2(b) by removing the last sentence from the text of the paragraph and inserting it as the second sentence in the "Radiation Protection and Nuclear Criticality" clause following paragraph (b).

§ 9-50.704-3 (Amended)

By amending § 9-50.704-3 by:

1. Removing the words "CPFF construction contracts use the following clause" and substituting therefor: "Cost-reimbursement operating and onsite service contracts which include construction work shall include the following clause"

2. Providing the following title for the clause: "BUY AMERICAN—"

OPERATING/ONSITE CONSTRUCTION"

3. Adding a new paragraph (b)(5) as follows: "(5) As to which the contractor, if specifically authorized to do so, has determined to be unavailable in accordance with FPR 1-18.602-1(b)."

§ 9-50.704-13 (Amended)

By amending § 9-50.704-13(d)(15) by adding the following immediately after word "guards,": "cashiers, and paymasters, if payments are made by check."

§ 9-50.704-24 (Amended)

By amending § 9-50.704-24(a) by adding the following immediately after "\$100,000" where it first appears "and in all modifications over \$100,000".

§§ 9-50.704-36 and 9-50.704-48 (Reserved)

By removing and reserving §§ 9-50.704-36 and 9-50.704-48.

§ 9-50.1002 (Amended)

By amending § 9-50.1002 by adding the following immediately after the word "thereunder": ", including construction".

§ 9-50.1003 (Amended)

By amending § 9-50.1003 by adding the following immediately after the word "subcontracts": ", including construction".

§ 9-50.1213-6 (Amended)

By amending paragraph (b) of the certificate appearing in 9-50.1213-6 by adding the following immediately after the word "work": "shall be reported to the Department of Energy in accordance with this policy. I".

§ 9-50.1803 (Amended)

By amending § 9-50.1803 by adding the following: "Contractors may be authorized by the Head of the Procuring Activity to make determinations of nonavailability under FPR 1-18.602-1(b) for individual items under individual construction subcontracts awarded by them. Contractors may initiate the requests for determinations of impracticability in accordance with FPR 1-18.602-1(a), and requests for deviations from the FPR 1-18.603 procedures for determination of unreasonable cost. Such requests shall be forwarded to the Senior Procurement Official, Headquarters, after concurrence by the Head of the Procuring Activity."

[FR Doc. 81-31066 Filed 11-3-81; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Part 36

Indian Health; Preference in Employment; Osage Tribe of Oklahoma

AGENCY: Public Health Service, HHS.

ACTION: Final rule.

SUMMARY: This rule amends the definition of the term "Indian" for purposes of Indian preference in employment in the Indian Health Service (IHS) to continue the application of Indian preference to persons of the Osage Tribe of Oklahoma, who are at least one-quarter degree Indian ancestry. The amendment extends the previous expiration date of January 17, 1981, for three years to permit the tribe to organize and to establish current membership standards.

EFFECTIVE DATE: November 4, 1981.

FOR FURTHER INFORMATION CONTACT: Richard J. McCloskey, (301) 443-1116.

SUPPLEMENTARY INFORMATION: As a result of the April 22, 1977, decision of the U.S. District Court for the District of Columbia in *Tyndall v. U.S.*, the Department of Health and Human Services is under continuing court order to apply the same definition of the term "Indian" for purposes of Indian preference in employment in the IHS as that adopted by the Department of the Interior (DOI) and to publish the definition as a regulation in the Federal Register within 30 days of the DOI's publication.

Rulemaking procedures under the Administrative Procedure Act (5 U.S.C. 8553) generally involve publication of a notice of proposed rulemaking, affording interested persons the opportunity to comment, and publication of the final rule after consideration of the comments received. However, the statute allows the agency to dispense with notice and comment procedures:

(B) When the Agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.

The court's order in *Tyndall* provides good cause for dispensing with notice and comment procedures in this instance.

On July 11, 1978 (43 FR 29783), the HHS published a final rule which brought the definition of Indian for

purposes of Indian preference in employment in the IHS into conformance with the DOI definition. On July 17, 1981 (46 FR 37044, 45), the DOI amended its definition to continue the application of Indian preference to persons of the Osage Tribe of Oklahoma, who are at least one-quarter degree Indian ancestry.

The membership rolls of the Osage Tribe of Oklahoma, like a number of other tribes, were closed by an act of Congress. The current regulation provided a 3-year period for such tribes to formally organize and establish membership standards. The DOI regulation extended the deadline for the Osage Tribe of Oklahoma to July 17, 1984. The Department of Health and Human Services rule will do the same and the wording is identical to the DOI wording. In addition, under terms of the Court's order the IHS has been obligated to apply the revised DOI definition of Indian for purposes of employment from July 17, 1981—the effective date of the DOI final rule.

Osage Tribal persons, who are employed by the IHS and who received preference in any previous appointment, will continue to be preference eligibles so long as they are continuously employed. The Department of Health and Human Services has determined that this document is not a major rule and does not require a regulatory analysis under Executive Order 12291.

The Department of Health and Human Services has determined that this document does not have a significant economic effect on a substantial number of small entities. This rule affects only persons of the Osage Tribe of Indians. No notice of proposed rulemaking (NPRM) is required because, as a result of the Court's order, the Department does not have discretion in this matter and, therefore, pursuant to 5 U.S.C. 553(b)(B) the Department is waiving the proposed rulemaking requirements.

Accordingly, the Department of Health and Human Services amends 42 CFR 36.41(e) to read as follows:

Dated: September 16, 1981.

Edward N. Brandt, Jr.,

Assistant Secretary for Health.

Approved: October 14, 1981.

Richard S. Schweiker,

Secretary.

PART 36—INDIAN HEALTH

Subpart E—Preference in Employment

Section 36.41(e) is revised as follows:

§ 36.41 Definitions.

(e) For three (3) years or until the Osage Tribe has formally organized, whichever comes first, effective July 17, 1981, a person of at least one-quarter degree Indian ancestry of the Osage Tribe of Indians, whose rolls were closed by an act of Congress.

(25 U.S.C. 472)

[FR Doc. 81-31832 Filed 11-3-81; 8:45 am]

BILLING CODE 4110-84-M

Health Care Financing Administration

42 CFR Parts 405, 431, 433, 435, 436, 440, 447, 456, 463, 466, and 478

Medicare and Medicaid Programs; Correction

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Correction of interim final rules.

SUMMARY: This document corrects technical errors made in a number of regulations published in the Federal Register on September 30 and October 1, 1981. These regulations implemented, in part, Medicare and Medicaid provisions of the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97-35).

FOR FURTHER INFORMATION CONTACT: Nola Petrovich, (301) 594-9711.

SUPPLEMENTARY INFORMATION: On September 30, and October 1, 1981 we published in the Federal Register a group of regulations to implement, in part, Medicare and Medicaid provisions of the Omnibus Budget Reconciliation Act of 1981. This document contains technical corrections that address inadvertent deletions and errors in wording, spelling, punctuation, tense, and consistency of language.

PART 447—PAYMENTS FOR SERVICES

A. FR Doc. 81-28323, "Medicaid Program; Payment for Long-Term Care Facility Services and Inpatient Hospital Services," appearing at 46 FR 47964, September 30, 1981, is corrected as follows:

1. On page 47971, column 3, § 444.251, a period is added after the section title, and "facilities" in the last line of the section is corrected to read "facility".

2. On page 47972, column 1, § 447.252, paragraph (f), in line 4, "specific" is corrected to read "specified".

3. On page 47972, column 1, § 447.253, paragraph (d), in line 3 "sumbit" is corrected to read "submit".

B. FR Doc. 81-28324, "Medicaid Program; Medicaid Eligibility and Coverage Criteria," appearing at 46 FR

47976, September 30, 1981 is corrected as follows:

PART 435—ELIGIBILITY IN THE STATES AND DISTRICT OF COLUMBIA

1. On page 47985, column 2, § 435.222, paragraph (b), in line 3, "in" is removed; and paragraph (b)(2), in line 2, "in" is inserted after "or" and before "part".

2. On page 47985, column 3, in the table of contents for Subpart D—Optional Coverage of the Medically Needy, the asterisks between §§ 435.301 and 435.308, and following § 435.340, are removed.

3. On page 47986, column 3, § 435.324, uncodified introductory paragraph, in line 4, "individual" is corrected to read "individuals".

4. On page 47988, column 1 § 435.821, paragraph (b) which reads "(b) The agency must consider income and resources that are actually contributed by the spouse or parent as available to the individual.", is corrected to read "(b) The agency must consider the parent's or spouse's income and resources as available if they are actually contributed to the individual." The correction is made to make the language consistent with that in § 435.823(b)(1).

5. On page 47988, column 1, § 435.822, paragraph (b)(1), in line 2, "that" is corrected to read "as available if they". The correction is made to make the language consistent with that in § 435.823(b)(1).

6. On page 47988, column 3, § 435.840 "(See § 435.841)" is added at the end of paragraph (c) after the word "Reasonable".

7. On page 47988, column 3, and continued on page 47989, column 1, § 435.841, paragraph (b)(1), in lines 8-10, "(or an optional State supplement, if the agency provides Medicaid under § 430.230)" is removed; paragraph (b)(2) in lines 9-11, "or an optional State supplement, if the agency provides Medicaid under § 430.230" is removed and "highest" is inserted after "the" on line 6 and before "resource" on line 7; paragraph (d), in line 1, "Agency" is corrected to read "agency".

PART 436—ELIGIBILITY IN GUAM, PUERTO RICO, AND THE VIRGIN ISLANDS

8. On page 47990, column 2, § 436.301(b)(1)(ii) on line 2, the word "or" is corrected to read "as".

9. On page 47991, columns 1 and 2, under § 436.811, "and" is inserted at the end of paragraph (b); "(see § 436.812)." is added after "Reasonable" in paragraph (c); and "and" at the end of paragraph (c) and all of paragraph (d)

are removed. (Paragraph (d) was inadvertently duplicated from regulations for the States. The provision does not apply to the territories (section 248(d) of Pub. L. 90-248).) As corrected, § 436.811 reads as follows:

§ 436.811 Medically needy income standards: General requirements.

To determine eligibility of medically needy individuals, the agency must use an income standard under this subpart that is—

- (a) Based on family size;
- (b) Uniform for all individuals in a covered group; and
- (c) Reasonable (see § 436.812).

10. On page 47991, column 2, § 436.812, paragraph (c), in line 4, the dash is removed; in line 4-10, the words "(1) The medically needy income standard in paragraph (b) of this section exceeds the maximum dollar amount or income allowed for purposes of FFP under § 435.1007; and (2)" are removed; and in line 10 "The" is corrected to read "the". (Paragraph (c)(1) was inadvertently duplicated from regulations for the States. The provision does not apply to the territories (section 248(d) of Pub. L. 90-248).) As corrected, § 436.812(c) reads as follows:

§ 436.812 Medically needy income standards: Reasonableness.

(c) The agency may use a medically needy income standard, that is lower than the standards specified in paragraph (b) of this section, if the lower income standard at least equals the maximum amount allowed for purposes of FFP.

11. On page 47992, column 1, § 436.840 "(see § 436.841)" is added at the end of paragraph (c) after "Reasonable" and before the period.

12. On page 47992, column 1, and continued in column 2, § 436.841, paragraph (b)(2), in line 5 "highest" is inserted after "the" and before "resource".

13. On page 47992, column 2, § 436.843, paragraph (b), in line 3 "§ 435.841" is corrected to read "§ 436.841."

PART 440—SERVICES: GENERAL PROVISIONS

14. On page 47993, column 1, § 440.220 (which begins on page 47992) paragraph (d), in line 3, "and" is corrected to read "or".

PART 433—STATE FISCAL ADMINISTRATION

C. FR Doc. 81-28325, "Medicaid Program; Reduction in Payments to the

States", appearing at 46 FR 47996, September 30, 1981, is corrected as follows:

1. On page 48001, column 3, the last citation on the fifth line of the authority citation is corrected by removing the parentheses surrounding the letter "k" in "1396(k)".

2. On page 48002, column 1, § 433.203, in line 10 of the definition of "Recoveries", remove the comma following "by".

3. On page 48002, column 3, § 433.213, paragraph (b)(2)(ii), in line 9, "and" is corrected to read "or".

PART 431—STATE ORGANIZATION AND GENERAL ADMINISTRATION

D. FR Doc. 81-28330, "Medicaid Program; Freedom of Choice; Waivers of and Exceptions to State Plan Requirements," appearing at 46 FR 48524, October 1, 1981, is corrected as follows:

1. On page 48527, column 1, § 431.50(c), paragraph (c)(3), in line 2, "services" is corrected to read "devices".

2. On page 48527, columns 2 and 3, § 431.54 the designation of paragraph "(b)" is changed to "(d)", in line 8 "under" is added after "required" and before "§ 431.51(d)", and in line 9, add a comma after "finds" in the new paragraph (d).

3. On page 48528, column 2, § 431.55, paragraph (f), in line 9, "That" is corrected to read "that".

E. FR Doc. 81-28331, "Medicaid Program; Home and Community Based Services," appearing at 46 FR 48532, October 1, 1981, is corrected as follows:

1. On page 48539, column 2, § 431.50, paragraph (c)(1) in line 1, "Service" is corrected to read "Services" and in line 3, the parenthesis is removed after the reference "§ 440.250(g)", and a parenthesis is inserted after "subchapter" and before the semicolon.

2. On page 48539, column 2, § 431.50, paragraph (c)(3) in line 2, "services" is corrected to read "devices".

PART 435—ELIGIBILITY IN THE STATES AND DISTRICT OF COLUMBIA

3. On page 48539, column 3, § 435.3, in line 5, add a hyphen after "community" and before "based".

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

F. In FR Doc. 81-28332, "Medicare Program; Inpatient Routine Nursing

Salary Cost Differential," appearing at 46 FR 48544, October 1, 1981, on page 48546, column 3, § 405.430, paragraph (e)(1), in line 14, change the division sign in the formula to a minus sign within the parenthesis.

G. In FR Doc. 81-28333, "Medicare and Medicaid Programs; Less Than Effective Drugs and Inpatient Hospital Tests," appearing at 46 FR 48550, October 1, 1981, on page 48554, column 1, § 405.232, paragraph (c)(2)(iii), on line 1, "was" is corrected to read "is".

H. FR Doc. 81-28334, "Medicaid Program; Miscellaneous Medicaid Provisions—Increased State Flexibility," appearing at 46 FR 48556, October 1, 1981, is corrected to read as follows:

PART 433—STATE FISCAL ADMINISTRATION

1. On page 48559, column 3, in the authority citation, line 4 is corrected by removing "(a)(4)" in the citation "1302(a)(4)" and by inserting the citation "1396a(a)(4)" after the corrected "1302", and line 5 is corrected by removing the parentheses following the letter "k" in the citation "1396(k)".

PART 447—PAYMENTS FOR SERVICES

2. On page 48560, column 2, the table of contents for Subpart D is corrected by inserting the words "Payment Methods" at the beginning of the subpart title and adding a semicolon in the title of § 447.304 after "limits" and before "FFP".

PART 456—UTILIZATION CONTROL

3. On page 48561, column 1, the table of contents is corrected by inserting 5 asterisks below each section title.

4. On page 48561, column 2, § 456.260, paragraph (a)(1), in lines 1 and 2, remove the words "and recertify".

I. FR Doc. 81-28335, "Professional Standards Review Organizations," appearing at 46 FR 48564, October 1, 1981, is corrected as follows:

PART 431—STATE ORGANIZATION AND GENERAL ADMINISTRATION

1. On page 48565, column 3, § 431.630, the uncodified introductory paragraph was erroneously reprinted and is removed.

PART 433—STATE FISCAL ADMINISTRATION

2. On page 48566, column 1, § 433.15, paragraph (b)(6)(i), in line 6 the semicolon following "Act" is changed to a colon and the colon following "75" is removed.

PART 463—REVIEW RESPONSIBILITY AND AUTHORITY OF PROFESSIONAL STANDARDS REVIEW ORGANIZATIONS (PSROs)

3. On page 48569, column 1, § 463.18, the uncodified paragraph, in line 2, the comma after "Secretary" is removed and the words "or a" are inserted after "Secretary" and before "Medicare".

PART 466—PSRO HOSPITAL REVIEW

4. On page 48569, column 1, § 466.1, the second line of the amendatory language is corrected by changing "paragraph (a)" to "paragraphs (a)(1) and (2)" following the word "revising" and before the word "as".

5. On page 48569, column 2, § 466.1, the asterisks following paragraph (a)(1)(iii) are removed.

6. On page 48570, column 1, § 466.62, five asterisks are added following paragraph (d)(2).

PART 478—STATEWIDE PROFESSIONAL STANDARDS REVIEW COUNCILS

7. On page 48570, column 3, § 478.6, paragraph (c)(2), in line 6, "programs" is corrected to read "program".

8. On page 48570, column 3, § 478.102 paragraph (a)(3), in line 4, insert a parenthesis following the word "physicians" and before the word "of".

(Catalog of Federal Domestic Assistance, Program No. 13.714, Medical Assistance Program; Program No. 13.773, Medicare—Hospital Insurance; and Program No. 13.774, Medicare—Supplementary Medical Insurance).

Approved: October 29, 1981.

Robert F. Sermier,

Deputy Assistant Secretary for Management Analysis and Systems.

[FR Doc. 81-21951 Filed 11-3-81; 8:45 am]

BILLING CODE 4110-35-M

INTERSTATE COMMERCE COMMISSION

49 CFR Ch. X

[Ex Parte No. 311 (Sub-No. 4)]

Modification of the Motor Carrier Fuel Surcharge Program; Clarification

AGENCY: Interstate Commerce Commission.

ACTION: Clarification of final modification.

SUMMARY: On October 9, 1981, at 46 FR 50070, the Commission published final modifications of the fuel surcharge program for motor carriers and freight forwarders to replace the revenue-based

fuel surcharge with a program which will reimburse owner-operators now and in the future for fuel costs above 63.5 cents a gallon. This notice clarifies the prior decision; it is to be published as appendix D to the decision appearing in the bound volume.

EFFECTIVE DATE: November 8, 1981.

FOR FURTHER INFORMATION CONTACT:

Lee Alexander (202) 275-7597

Richard Shullaw (202) 275-7639

Ted Kalick (202) 275-6446

David Manning (202) 275-7395

Robert G. Rothstein (202) 275-7912

Joseph A. Heberle (202) 275-7371

SUPPLEMENTARY INFORMATION:

Empty Mileage

In the prior decision, it was indicated that the Commission's compensation method will reimburse owner-operators for all miles traveled at the direction of the carriers except those for the owner-operator's personal or non-carrier related business. Questions have arisen about this requirement.

Empty miles traveled to pick up exempt loads or intra-state loads not subject to I.C.C. regulation are not subject to the fuel compensation method. The prior decision stated that carriers will reimburse owner-operators for all miles traveled at the direction of the carriers, whether loaded or empty. There has been some confusion with the phrase "at the direction" of the carrier. What we mean by this phrase is empty miles for carrier-related business. For example, an owner-operator moves between points A and B and then is directed by the permanent lease carrier to point C to pick up another regulated load. The empty miles from B to C are to be paid under the Commission's decision. However, as noted in the prior decision, all empty miles traveled by owner-operators or personal or non-carrier related business will not be subject to payment.

Trip lease carriers are responsible for empty and loaded miles traveled after the trip lease is executed. Miles traveled to execute the trip lease, which are unrelated to the permanent-lease carrier will not be reimbursed.

Because all miles traveled on carrier-related business, whether loaded or empty, will be subject to the mileage compensation factor, several carriers have requested, in a petition filed October 20, 1981, that we reduce their accounting burden by permitting them to adjust the Commission's compensation factor upward by a carrier's average empty mileage factor and apply this aggregate figure to loaded miles only. We are not convinced that the averaging approach will be substantially more

economical, particularly since carriers must already account for mileage for state fuel tax purposes, and as a result of this decision must use the load mileage data to compute owner-operator compensation. Rather, we are persuaded that the averaging approach, because of its more subjective nature, may fall significantly short of our goal of reimbursing owner-operators for fuel costs above 63.5 cents a gallon.

Aside from arguments of economy, we recognize that a fair and objective standard for averaging empty mileage could reduce friction over which dead head miles require fuel reimbursement. Accordingly, we are considering a related proceeding to seek comments on this issue. For now carriers will be required to follow the compensation formula.

Revenue Short-Fall Recovery

The mileage compensation figure constitutes the minimum fuel reimbursement consistent with this decision. Our decision was not intended, nor does it contain language, to preclude a carrier from reimbursing the owner-operator at a higher level. The conversion from the revenue-based fuel surcharge to the mileage compensation formula will more accurately reimburse the owner-operator for increased fuel costs but may yield less revenue than before. To the extent owner-operators were over-compensated for fuel, their non-fuel cost increases generally were not reflected in the rate structure. Carriers may file for rate increases to cover the owner-operator's higher non-fuel costs. Our decision specifically provides that short notice rate relief is available to make up for any revenue shortfall. Revenue shortfalls experienced by owner-operators are recoverable by separate tariff publications which may be filed to become effective on the same effective date of the fold-in publication. Thus, in addition to the minimum mileage compensation payment, which shall include an empty mileage payment, the revenue raised to compensate for higher non-fuel costs may be paid entirely to the owner-operator. However, we reemphasize that the fold-in mechanism itself must not be used to recover non-fuel related costs.

The Fold-In

In the "Miscellaneous Matters" section of the prior decision, we indicated that tariff publishers must receive verified statements from carriers, and then file a verified statement that the publishers have

received statements from their members which comply with this decision.

Compliance with this requirement was not intended and should not be construed to preclude collective action on the fold in. Any other construction would go far beyond the important but limited objectives of this decision. If the fold in is accomplished collectively, the bureau shall verify on behalf of its carrier participants that the fold-in amount is no greater than necessary to cover increased fuel costs since January 1, 1979, on a bureau-wide basis, and that member carriers will reimburse owner-operators for fuel costs at the level established by the Commission. Individual carriers, if they participate in the collective action, need not verify the fold-in level or the intent to reimburse owner-operators for fuel at the level established by the Commission. The bureau verification will be binding upon them without need of separate verification.

Contract Carriers

Contract carriers may fold in the surcharge on statutory notice and must reimburse owner-operators for fuel costs at the level established by the Commission.

Dual Compensation

In the prior decision, we noted that parties may modify leases to provide for 100 percent retention by the carriers of any Ex Parte No. 311 fuel-related rate increases. Carriers establishing rates in the future which will not be subject to a surcharge fold in may minimize dual compensation problems by treating the initial fuel payment to the owner-operator as the equivalent of the fold-in amount and deduct it to calculate gross revenues. Either of the approaches contained in the decision can then be applied to subsequent fuel and non-fuel related increases. A similar procedure may be used if carriers have previously folded in the fuel surcharge.

Exceptions to the Compensation Formula

Owner-Operators occasionally are involved in van service and other types of operations where diesel or regular fuel may be used and average fuel efficiency exceeds 5 MPG. The owner-operator reimbursement level established by the Commission applies on a uniform basis since it is a practical impossibility to give effect to the diverse forms of carriage, many with fuel efficiencies above or below the Commission average. Carriers using owner-operators to transport traffic where miles traveled, the cost of fuel, or MPG figures differ significantly from the

Commission averages may avoid our mileage compensation system *only* as noted in footnote 2 in the prior decision. Thus, a carrier may provide the owner-operator with fuel, have arrangements with strategically located service stations, accept receipts, or adopt any other system whereby the carrier is responsible for actual fuel costs in excess of 63.5 cents a gallon. While we recognize that these approaches may require greater mileage monitoring, we do not regard them as impractical. Rather, the abandonment of the uniform average because of the aberrations strikes us as more impractical, particularly since we cannot envision an enforceable replacement.

The decision served on October 8, 1981, as clarified and interpreted by this notice, will take effect on November 8, 1981. Because this notice merely clarifies the October 8 decision and relieves a burden on the parties involved, the Commission need not delay the effective date of the October 8 decision. Furthermore, these interpretations are inextricably bound to the October 8 decision and should go into effect on the same date. In addition, there is good cause to make these interpretations effective with the October 8 decision so that the public will not have to adjust to a new fuel reimbursement system at the same time that it must cope with the disruptions of winter weather. This will allow a smooth transition to the new program and will ensure continuous transportation services for the Nation.

Decided: October 29, 1981.

By the Commission, Chairman Taylor, Vice Chairman Clapp, Commissioners Gresham and Gilliam.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-31963 Filed 11-3-81; 8:45 am]

BILLING CODE 7035-01-M

49 CFR Ch. X

[Ex Parte No. 311 (Sub 4)]

Modification of the Motor Carrier Fuel Surcharge Program; Correction

AGENCY: Interstate Commerce Commission.

ACTION: Correction to Final Modification.

SUMMARY: On October 9, 1981, at 46 FR 50070, the Commission published final modifications to of the fuel surcharge program for motor carriers and Freight Forwarders to replace the revenue-based fuel surcharge with a program which will reimburse owner-operators now and in the future for fuel costs

above 63.5 cents a gallon. This is to correct certain errors and omissions contained in the prior notice.

FOR FURTHER INFORMATION CONTACT: Lee Alexander (202) 275-7597; Richard Shullaw (202) 275-7639; Ted Kalick (202) 275-6446; David Manning (202) 275-7295; Robert G. Rothstein (202) 275-7912; Joseph A. Heberle (202) 275-7371.

SUPPLEMENTARY INFORMATION:

1. In the summary on page 50070, first column, line 8, after "mile" add "if fuel prices remain the same until the effective date of this decision."

2. Page 50070, column 2, bottom, footnote 1 should be added "When the term 'owner-operator' is used in this decision, the person actually responsible for fuel costs is intended. We recognize that in many cases the owner of the vehicle does not bear this expense."

3. Page 50071, column 2, line 10, change "actual" to "average."

4. Page 50072, in the formula for the Commission's Compensation Factor, the cost of fuel above 63.5 cents a gallon divided by MPG should be multiplied by "1.06" instead of ".06."

5. Page 50072, column 1, line 8 of first full paragraph, change "shipment" to "trip."

6. Page 50072, column 1, first full paragraph from the bottom, line 10, change "ATA" to "Common Carrier Conference—Irregular Route."

7. Page 50072, column 1, at the end of footnote 5, add "Copies are also available from Movers and Warehousemen's Association of America, Inc., 1001 North Highland St., Arlington, VA 22201. The telephone number is (703) 525-4311."

8. Page 50072, column 2, lines 4 and 6, add "exact dollar" after "(1) the" and after "(2) the."

9. Page 50072, column 2, lines 11-19, eliminate "A base rate * * * all other rate increases."

10. Page 50072, column 2, on line 23, following "footnote 1." add:

For example, assume that the revenue on a shipment is \$1,000 and the present 18 percent surcharge applies. Further assume that there is a 13 percent fold in (+\$130.00) and a 3 percent fuel-related rate increase at some time in the future. The actual gross revenue on the shipment will be \$1,163.90 (\$1,000 + 130 = \$1,130 × .03 = \$33.90 + \$1,130 = \$1,163.90). From this amount, the fold-in amount of \$130 (13 percent of \$1,000) and the fuel-related rate increase of \$33.90 (3 percent of \$1,130) will be subtracted leaving the owner-operator to be paid on gross revenues of \$1,000 (\$1,163.90 - (\$130 + \$33.90)). If we further assume that a 10 percent general

rate increase, unrelated to fuel, followed the 3 percent fuel increase, the gross revenues for the shipment would increase to \$1,280.29 (\$1,163.90 $\times$.10 = \$116.39 + \$1,163.90 = \$1,280.29). The owner-operator will be paid on gross revenues of \$1,163.39 (\$1,280.29 - (\$130 + 33.90) = \$1,116.39).

An alternative method for calculating gross revenues, subject to the split, would rely on the establishment of a base rate. The base rate would be the applicable tariff rate immediately preceding the fold in, and it would be adjusted by any future non-fuel related rate adjustments in the same dollar amount as the adjustments affect the rate. Thus, if the base rate is \$1,000 before the fold in, the next adjustment following the above example would be the addition of \$116.39.

Both approaches yield the same gross revenues for purposes of determining owner-operator compensation, and by segregating out the actual dollar amount of any fuel related rate increases, they both ensure that dual compensation will be kept to an absolute minimum. This is because neither approach can entirely eliminate the distortion caused by the compounding of fuel and non-fuel related increases upon each other.

11. Page 50072, column 2, eliminate the first full paragraph and the example following.

12. Page 50073, column 3, line 1, add "to seek" after "have declined."

13. Page 50073, column 3, second full paragraph, line 18, the correct citation is "49 U.S.C. 10762 (a)(1)."

14. Page 50074, column 1, eliminate the first sentence and replace with "Publications folding in the surcharge may not include any other rate adjustments."

15. Page 50074, column 2, first full paragraph, line 16, change "insurances" to "insurance."

16. Page 50074, column 2, second line from bottom, change "90 days from publication" to "60 days from the effective"

17. Page 50075, column 1, the effective date of the decision is November 8, not November 9.

Dated: October 29, 1981.

By the Commission, Chairman Taylor, Vice Chairman Clapp, Commissioners Gresham, and Gilliam.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 81-31952 Filed 11-3-81; 8:45 am]

BILLING CODE 7035-01-M

49 CFR Part 1033

[Service Order No. 1474]

Various Railroads Authorized To Use Tracks and/or Facilities of Chicago, Milwaukee, St. Paul & Pacific Railroad Co., Debtor, (Richard B. Ogilvie, Trustee)

AGENCY: Interstate Commerce Commission.

ACTION: Tenth Revised Service Order No. 1474.

SUMMARY: Pursuant to Section 122 of the Rock Island Railroad Transition and Employee Assistance Act, Pub. L. 96-254, this order authorizes various railroads to provide interim service over the Chicago, Milwaukee, St. Paul and Pacific Railroad Company, Debtor, (Richard B. Ogilvie, Trustee, and to use such tracks and facilities as are necessary for operations. This order permits carriers to continue to provide service to shippers which would otherwise be deprived of essential rail transportation.

EFFECTIVE: 11:59 p.m., October 30, 1981, and continuing in effect until 11:59 p.m., December 31, 1981, unless otherwise modified, amended or vacated by order of this Commission.

FOR FURTHER INFORMATION CONTACT: M. F. Clemens, Jr., (202) 275-7840.

SUPPLEMENTARY INFORMATION:

Decided: October 29, 1981.

Pursuant to Section 122 of the Rock Island Transition and Employee Assistance Act, Pub. L. 96-254, the Commission is authorizing various railroads to provide interim service over Chicago, Milwaukee, St. Paul and Pacific Railroad Company, Debtor (Richard B. Ogilvie, Trustee), (MILW) and to use such tracks and facilities as are necessary for that operation.

Appendix A of Ninth Revised Service Order No. 1474 is revised by deleting, in this order, the following authorities.

Item 1. Illinois Central Gulf Railroad at Sioux City, Iowa.

Item 4. Raccoon River Railroad between Lohrville and Rockwell City, Iowa.

Appendix A is renumbered accordingly.

The deletion of the temporary authorities occurring in Item 1 of this order resulted from conveyance of the line to the State of South Dakota, and in Item 4, due to a complete termination of service by the Raccoon River. All items are renumbered accordingly.

It is the opinion of the Commission that an emergency exists requiring that the railroads listed in the attached

appendix be authorized to conduct operations, also identified in the attachment, using MILW tracks and/or facilities; that notice and public procedure are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered,

§ 1033.1474 Service Order No. 1474.

(a) Various Railroads Authorized to use tracks and/or facilities of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company, debtor (Richard B. Ogilvie, Trustee). Various railroads are authorized to use tracks and/or facilities of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company (MILW), as listed in Appendix A to this order, in order to provide interim service over the MILW.

(b) The Trustee shall permit the affected carriers to enter upon the property of the MILW to conduct service essential to these interim operations.

(c) The Trustee will be compensated on terms established between the Trustee and the affected carrier(s); or upon failure of the parties to agree as hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by Section 122(a) Pub. L. 96-254.

(d) Interim operators, authorized in Appendix A to this order, shall, within fifteen (15) days of its effective date, notify the Railroad Service Board of the date on which interim operations were commenced or the expected commencement date of those operations.

(e) Interim operators, authorized in Appendix A to this order, shall, within thirty days of commencing operations under authority of this order, notify the MILW Trustee of those facilities they believe are necessary or reasonably related to the authorized operations.

(f) During the period of these operations over the MILW lines, interim operators shall be responsible for preserving the value of the lines, associated with each interim operation, to the MILW estate, and for performing necessary maintenance to avoid undue deterioration of lines and associated facilities.

(g) Any operational or other difficulty associated with the authorized operations shall be resolved through agreement between the affected parties or, failing agreement, by the Commission's Railroad Service Board.

(h) Any rehabilitation, operational, or other costs related to the authorized operations shall be the sole

responsibility of the interim operator incurring the costs, and shall not in any way be deemed a liability of the United States Government.

(i) *Application.* The provisions of this order shall apply to intrastate, interstate and foreign traffic.

(j) *Rate applicable.* Inasmuch as this operation by interim operators over tracks previously operated by the MILW is deemed to be due to carrier's disability, the rates applicable to traffic moved over these lines shall be the rates applicable to traffic routed to, from, or via these lines which were formerly in effect on such traffic when routed via MILW, until tariffs naming rates and routes specifically applicable become effective.

(k) In transporting traffic over these lines, all interim operators involved shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to that traffic. Division shall be, during the time this order remains in force, those voluntarily agreed upon by and between the carriers; or upon failure of the carriers to so agree, the divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(l) *Employees.* In providing service under this order interim operators, to the maximum extent practicable, shall use the employees who normally would have performed work in connection with the traffic moving over the lines subject to this Service Order.

(m) *Effective date.* This order shall become effective at 11:59 p.m., October 30, 1981.

(n) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., December 31, 1981, unless otherwise modified, amended, or vacated by order of this Commission.

(49 U.S.C. 10304-10305 and Section 122, Pub. L. 96-254)

This order shall be served upon the Association of American Railroads, Transportation Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members J. Warren McFarland, Robert S. Turkington and John H.

O'Brien, Robert S. Turkington not participating.

Agatha L. Mergenovich,
Secretary.

Appendix A—MILW Lines Authorized To Be Operated by Interim Operators

*1. Seattle and North Coast Railroad Company (SNC):

A. Between Port Angeles and Port Townsend, Washington, including Pier 27 and associated tract in Seattle, Washington.

*2. Burlington Northern Inc. (BN):

A. In Sioux City, Iowa, between milepost 509.77 and milepost 512.62, a distance of approximately 2.85 miles.

*3. Des Moines Union Railway Company (DMU):

A. Between Des Moines (milepost 0) and Clive (milepost 8.5) Iowa; and between Clive (milepost 0) and Grimes, Iowa (milepost 7), a total distance of 15.5 miles.

(FR Doc. 81-31950 Filed 11-3-81; 8:45 am)

BILLING CODE 7035-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Final Redefinition of "Harm"

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: This final rule is a redefinition of the Service regulation defining "harm" under section 9 of the Endangered Species Act, 50 CFR 17.3. "Harm" is redefined to mean any action, including habitat modification, which actually kills or injures wildlife, rather than the present interpretation which might be read to include habitat modification or degradation alone without further proof of death or injury. Habitat modification as injury would only be covered by the new definition if it significantly impaired essential behavioral patterns of a listed species.

DATE: This rule becomes effective November 4, 1981.

ADDRESSES: Questions concerning this rule may be addressed to the Director (OES), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. Comments and materials relating to the action are available by appointment for public inspection during normal business hours at the Service's Office of Endangered Species, Suite 500, 1000 N. Glebe Road, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Mr. John L. Spinks, Jr., Chief, Office of Endangered Species, U.S. Fish and

Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240, (703) 235-2771.

SUPPLEMENTARY INFORMATION: On June 2, 1981, the Fish and Wildlife Service proposed to amend the definition of "harm" in its regulations under the Endangered Species Act at 50 CFR 17.3, 46 FR 29490 (June 2, 1981). That proposed rule invited public comment for a period of 60 days, ending on August 3, 1981. The notice proposed the redefinition on the grounds that the existing language could be construed as prohibiting the modification of habitat even where there was no injury to the listed endangered or threatened wildlife. The Office of the Solicitor, in a memorandum to the Director of the Fish and Wildlife Service, concluded that such application of Section 9 would go beyond the intent of Congress in the Act. Accordingly, the Associate Solicitor recommended that the definition be changed to obviate any such erroneous application. In addition, the issue had begun to appear in judicial opinions and the Service desired to clarify the definition to avoid any results which would be inconsistent with the Act. In proposing a redefinition, however, the Service did not intend to imply that significant habitat destruction which could be shown to injure protected wildlife through the impairment of its essential behavioral patterns was not subject to the Act. This misperception has been eliminated in the final rule.

The Service received numerous public comments from a variety of parties. Of the 328 comments received, 66 favored the redefinition as proposed, and 262 opposed the proposed redefinition. Approximately 30 of the comments received made substantive or analytical comments of varying degrees; the remaining letters simply voiced support or opposition for the proposed redefinition. The comments in support of the redefinition basically relied on the points contained in the Associate Solicitor's memorandum attached to the rulemaking. Some of the comments in favor of the redefinition, however, viewed the action as limiting "harm" to direct physical injury to an individual member of the wildlife species. This was not the intent of the Service and the final redefinition addresses that perception. The purpose of the redefinition was to preclude claims of a Section 9 taking for habitat modification alone without any attendant death or injury of the protected wildlife. Death or injury, however, may be caused by impairment of essential behavioral patterns which can have significant and permanent effects on a listed species.

*Renumbered.

Many commenters suggested that the word "actually" be reinserted in the definition to bulwark the need for proven injury to a species due to a party's actions. This has been done.

Congress made its intent to protect species and their habitat very clear. It did not, however, express any intention to protect habitat under section 9 where there was no appurtenant showing of death or injury to a protected species. This was made clear in the preamble to the original definition of harm:

"Harm" covers actions . . . which actually (as opposed to potentially), cause injury . . .

By moving the concept of environmental degradation to the definition of "harm", potential restrictions on environmental modifications are expressly limited to those actions causing actual death or injury to a protected species of fish or wildlife. The actual consequences of such an action upon a listed species is paramount. 40 FR 44412, 44413 (September 26, 1975)

Thus, to the extent that comments recommended further limitations, they misconstrued the intent of the rulemaking. In the opinion of the Service, the final redefinition sufficiently clarifies the restraints of section 9 so as to avoid injury to protected wildlife due to significant habitat modification, while at the same time precluding a taking where no actual injury is shown.

Similarly, parties who opposed the redefinition perceived it as eliminating any protection against injury due to significant habitat modification. Again, this was not the intent of the Service in the redefinition. This concern, of course, is unfounded because section 9's threshold does focus on individual members of a protected species. In addition, the final redefinition makes it clear that the concept is not so limited.

The comments raised a number of specific objections to the proposed redefinition. The predominant comments are addressed individually below.

Comment—A number of comments stated that the proposed redefinition was superfluous because it defined "harm" using terms that were already in Congress' definition of "take."

Response—This comment fails to appreciate that Congress intended to create a definition of take which included all of the various ways of killing or injuring protected wildlife. Congress defined "take" as meaning to "harass, harm, pursue, hunt, shoot, wound, kill trap, capture, or collect . . ." It is obvious that there is considerable overlap in many of these terms and it would be a fruitless and impractical exercise to attempt to define any one of these terms to the exclusion

of the others so as to have no overlap of prohibited actions.

Comment—A number of comments challenged the ejusdem generis argument of the legal memorandum attached to the proposal, saying that the opinion's analysis of the Act on these grounds was erroneous.

Response—In the opinion of the Service, this comment fails to take the ejusdem generis argument in context. The purpose of the rulemaking was to make it clear that an actual injury to a listed species must be found for there to be a taking under section 9. The issue under examination was whether habitat modification alone, without the kind of injury or harm envisioned in the definition of "take", was a violation of section 9. The opinion concluded that it was not and no substantive comments were received to the contrary. "Harm" was being examined to see if it could be read as meaning habitat modification alone—a meaning that an early version of S.1983, 93d Cong. 1st Sess. Section 3(b)(A) might have given it. In view of the specificity contained in the definition of take finally enacted, it was concluded that no such meaning could be given to harm.

Comment—The principal objection raised by both substantive and nonsubstantive comments was that the redefinition was inconsistent with the intent of Congress and with the findings of Congress under the Act that habitat destruction is one of the two major causes of extinction.

Response—This view was partly due to public misperception of the purpose and scope of the proposal. The Service agrees that where there is no legislative history specifically on point for a given section, the overall intent of Congress should control. Nonetheless, this rule of construction cannot be used to convert section 9 into a habitat protection provision; as other comments pointed out, that is the purpose of sections 5 and 7 of the Act. Of course, the Service recognizes that in some cases, there is critical need of protected wildlife for specific habitat. Significant modification or destruction of such habitat, where an actual injury occurs, including impairment of essential behavioral patterns, will still be viewed as being subject to section 9 of the Act.

Comment—Many comments also cited legislative history which showed that Congress intended the term "take" to be construed very broadly.

Response—While recognizing the Congressional intent, the Service feels that the legislative history cannot be read to prohibit habitat modification under section 9 without actual injury. The examples given, in each instance,

were in the context of injury to a species and not to habitat. As the final rule makes clear, where the habitat modification results in injury, the action is subject to section 9.

Comment—A few comments disagreed with the Service's finding of ambiguity in the present definition and contended that it also requires death or injury.

Response—The Service recognizes that the existing definition can be read this way and, indeed, that was the Service's original intent in 1975. Nonetheless, to the extent that there is a latent ambiguity which implies criminal and civil liability not intended by Congress, the Service feels it appropriate to clarify the definition.

Comment—The issue of section 7/section 9 conflict was also raised a number of times, the comments disagreeing that the existing definition might render section 7 superfluous.

Response—Again, this comment is only valid to the extent that the redefinition is viewed as eliminating the concept of injury by habitat modification. If habitat modification alone were covered by section 9, it also could be argued that much of section 7 would be theoretically superfluous. This was the context of the section 7/section 9 discussion and the majority of the comments fail to realize this. This preamble and the wording of the final definition should obviate this misperception.

Comment—Many comments differed strongly with the legal memorandum's discussion of *Palila v. Hawaii Department of Land and Natural Resources*, 471 F.Supp. 985 (D. Haw. 1979), *aff'd*, 639 F.2d 495 (9th Cir. 1981), and some even suggested that the Service's action was unconstitutional. The principal objection was that *Palila* was correctly decided and that the Service redefinition was intended to avoid the result of that case.

Response—The Solicitor's Office opinion disagrees. The *Palila* decisions can be read to incorrectly imply that under the Service's definition of "harm" a taking may occur from habitat modification alone. The question of injury to a population is, of course, one of fact, but, the Solicitor's Office was concerned that the District Court misconstrued the biological evidence presented at trial and substituted its own judgment in finding injury to the *Palila*. To the extent that courts have now started to discuss and rely upon the Service's definition of harm, it is important to clarify what the Service intended the definition to mean. Although the legal memorandum

attached to the rulemaking did propose a clarification "to prevent the result reached in *Palila*", 46 FR 29492, the "result" referred to was the implication in the opinions that section 9 might apply to habitat modification absent death or injury.

Comment—At least one substantive comment apparently argues that habitat modification alone was intended by Congress to be a taking prohibited by section 9. The precise objection of the comment is unclear, however, because the examples and discussion in the comment continually refer to the injury and harmful effects on species which can be caused by habitat destruction.

Response—To the extent that the comment contends that habitat modification alone is a taking, it is without support in the Act or legislative history. The comment provides no substantive support and, indeed, is at odds with the majority of comments which concede that such habitat modification or degradation must be coupled with death or injury to a listed species. As previously stated, the Service agrees with the many other comments which recognized the need for actual injury. To the extent that this comment intended to concede the need for injury, the final definition addresses its concerns.

The bulk of criticism of the proposed redefinition was aimed at the legal opinion and questioned its support for a redefinition which eliminated habitat modification as a potential source of injury. As a general matter, these complaints are inapposite since this was never the intention of the redefinition. In the Service's opinion, the proposed redefinition would still have encompassed this type of injury. Nonetheless, the final redefinition eliminates this problem and either

answers or makes moot all of the legal questions raised in the comments.

Although some of the comments specifically argued that habitat modification alone is a prohibited taking under section 9, in the opinion of the Service, Congress expressed no such intent.

The final definition adds the word "actually" before the words "kills or injures" in response to comments requesting this addition to clarify that a standard of actual, adverse effects applies to section 9 takings. In addition, the phrase "or omission" was deleted since the Service feels that "act" is inclusive of either commissions or omissions which would be prohibited by section 9.

In response to the broad misperception of the intent of the rule, an additional sentence has been added which is similar to the original definition's language. This additional language makes it clear that habitat modification or degradation, standing alone, is not a taking pursuant to section 9. To be subject to section 9, the modification or degradation must be *significant*, must *significantly impair essential* behavioral patterns, and must result in *actual* injury to a protected wildlife species. The word "impair" was substituted for "disrupt" to limit harm to situations where a behavioral pattern was adversely affected and not simply disturbed on a temporary basis with no consequent injury to the protected species. The other terms are retained from the original definition to provide the standards by which such takings are to be judged.

National Environmental Policy Act

An environmental assessment has been prepared in conjunction with this redefinition. Based on the record

compiled in this decisionmaking and the environmental assessment, the Assistant Secretary for Fish and Wildlife and Parks has determined that this is not a major Federal action which would significantly affect the quality of the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act. 42 U.S.C. 4332(2)(C).

Note.—The Department of the Interior has determined that this is not a major rule and does not require preparation of a regulatory analysis under Executive Order 12291. The Department has also determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act. These determinations are discussed in more detail in a Determination of Effects which has been prepared by the U.S. Fish and Wildlife Service.

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Accordingly, the definition of "harm" in 50 CFR 17.3 is revised to read as follows:

§ 17.3 Definitions.

"Harm" in the definition of "take" in the Act means an act which actually kills or injures wildlife. Such act may include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding or sheltering.

Dated: October 1, 1981.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 81-32004 Filed 11-3-81; 8:45 am]

BILLING CODE 4310-55-M

Proposed Rules

Federal Register

Vol. 46, No. 213

Wednesday, November 4, 1981

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

Farmers Home Administration

7 CFR Parts 1924, 1941, 1943, and 1945

Insured Farmer Program Borrower Responsibilities

AGENCY: Farmers Home Administration, USDA.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Farmers Home Administration (FmHA) proposes to amend its regulation for supervision and servicing of Farmer Program insured borrowers. An FmHA Form explaining borrower's loan responsibilities and available servicing alternatives will be given to all applicants/borrowers during the process of loan making.

Circumstances creating the need for this amendment are cited in recent Office of Inspector General (OIG) audits indicating that many FmHA Farmer Program insured borrowers do not understand their loan responsibilities. Also, it is FmHA policy to discuss conditions for consolidation, reamortizing, rescheduling and deferring payments of loans with applicants/borrowers, however; there is no formal document notifying the applicant/borrower of these available alternatives.

The objectives of the proposed rule are to make sure that the conditions for consolidation, reamortizing, rescheduling and deferring payments of existing loans are effectively explained to applicants/borrowers and, furthermore, to educate the applicant/borrower about loan responsibilities, resulting in better servicing of loan accounts.

DATE: Comments must be received on or before January 4, 1982.

ADDRESSES: Submit written comments in duplicate to the Office of the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6348, South Agriculture Building, Washington, D.C., 20250. All written comments made

pursuant to this notice will be available for public inspection at the address given above.

FOR FURTHER INFORMATION CONTACT:

Mr. Lynn L. Pickinpaugh, Acting Director, Farm Real Estate and Production Loan Division, FmHA, Room 5314, South Agriculture Building, 14th and Independence Avenue, SW, Washington, D.C. 20250, (202) 447-5044.

SUPPLEMENTARY INFORMATION: This proposed rule has been reviewed under USDA procedures established in Secretary's Memorandum 1512-1 which implements Executive Order 12291, and has been determined to be non-major because there is not an annual effect on the economy of \$100 million or more, or a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This action does not directly affect any FmHA programs or projects that are subject to A-95 Clearinghouse review.

CFDA program numbers and titles are listed as follows:

- 10.404 Emergency Loans
- 10.406 Farm Operating Loans
- 10.407 Farm Ownership Loans
- 10.408 Grazing Association Loans
- 10.409 Irrigation, Drainage, and other Soil and Water Conservation Loans
- 10.418 Soil and Water Loans
- 10.428 Economic Emergency Loans

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

Need for Governmental Action

Sections 1951.33 and 1951.40 of Part 1951, Subpart A of this Chapter gives FmHA authority to defer, consolidate, reamortize and reschedule Farmer Program insured loans when circumstances occur that will not permit

borrowers to pay as scheduled or to refinance their loans. The present policy in Farmer Programs is for County Supervisors to discuss these alternatives with the borrowers when circumstances warrant taking one of the actions. However, there is no formal document notifying applicants/borrowers of these alternatives or mandatory language in FmHA procedure that requires the County Supervisor to discuss these alternatives with applicants/borrowers. Thus, FmHA decided to adopt such a document, which new borrowers or existing borrowers receiving another loan will be required to sign during the preparation and revision of Form FmHA 431-2, "Farm and Home Plan."

Part 1924, Subpart B, of this Chapter "Management Assistance to Borrowers," requires County Supervisors to provide credit counseling to all FmHA borrowers. Part 1910, Subpart A, of this chapter "Receiving and Processing Applications," requires the County Supervisors to discuss and explain applicant/borrower loan responsibilities. Therefore, action needs to be taken to provide the County Supervisors with a formal instrument for effectively meeting these objectives.

The Major Alternative Actions Considered are as Follows:

Continue with present policy in servicing problem case and delinquent accounts.

The FmHA County Supervisor does consider the alternatives and borrower loan responsibilities, and discusses them on a case by case basis. However, the present policy does not provide all borrowers specific advice concerning the authorities for rescheduling, consolidating, reamortizing and deferring payments of FmHA loans.

Revise all acceleration notices to include language describing alternatives.

An acceleration letter could be developed for notifying borrowers of alternative servicing options; however, FmHA does not consider this satisfactory. Acceleration letters are usually sent to the borrower as an early step in foreclosure proceedings and by that time all other alternatives have already been considered.

Develop a document explaining borrower's loan responsibilities and available alternatives.

The Farmers Home Administration recommends this alternative and proposes to develop a document that explains borrower responsibilities and alternatives available if the borrower is unable to pay in accordance with security instruments and other agreements with FmHA.

The projected USDA and other Federal costs and savings as a result of the proposed rule are undetermined.

FmHA proposes to amend Chapter XVIII, Title 7, Code of Federal Regulations as follows:

SUBCHAPTER H—PROGRAM REGULATIONS

PART 1924—CONSTRUCTION AND REPAIR

Subpart B—Management Assistance to Individual Borrowers and Applicants

1. As proposed, § 1924.57 is amended by adding paragraph (f)(3) to read as follows:

§ 1924.57 Planning.

(f) * * *

(3) Whenever a Farmer Program initial or subsequent loan is to be made, all items of borrower responsibility enumerated on Form FmHA 1924-14 "Farmer Program Borrower Responsibilities," will be discussed and clearly understood by the Applicant(s)/borrower(s). Form FmHA 1924-14 will be executed in accordance with the FMI during the preparation or revision of Form FmHA 431-2.

PART 1941—OPERATING LOANS

Subpart A—Operating Loan Policies, Procedures and Authorizations

Exhibit A [Amended]

2. As proposed Exhibit A, paragraph A, is amended to read as follows:

A. Applicant Interview

Form No.	Name
410-1	Application for FHA Services..... x
410-5	Request for Verification of Employment..... *
410-8	Applicant Reference Letter..... *
410-9	Statement Required by the Privacy Act..... *
410-10	Privacy Act Statement to References..... *
431-1	Long-Time Farm and Home Plan..... *
431-2	Farm and Home Plan..... x
431-4	Business Analysis—Nonagricultural Enterprise..... *
440-32	Request for Statement of Debts and Collateral..... *
1924-14	Farmer Program Borrower Responsibilities..... *
1940-51	Crop-Share-Cash Farm Lease..... *
1940-53	Cash Farm Lease..... *
1940-55	Livestock-Share-Farm Lease..... *
1940-56	Annual Supplement to Farm Lease..... *

PART 1943—FARM OWNERSHIP, SOIL AND WATER AND RECREATION

Subpart A—Insured Farm Ownership Loan Policies, Procedures and Authorizations

3. As proposed in § 1943.32, paragraph (a) is amended by adding, in numerical sequence, a new entry 1924-14 to read as follows:

§ 1943.32 Loan docket processing and forms.

(a) Forms. * * *

FmHA Form No.	Name of form	Total No. of copies	Signed by borrower	Loan docket	Copy for borrower
*1924-14	Farmer Program Borrower Responsibilities.....	2	2	1-0	1-C

Subpart B—Insured Soil and Water Loan Policies, Procedures and Authorizations

4. As proposed in § 1943.82, paragraph (a) is amended by adding, in numerical sequence, a new entry 1924-14 to read as follows:

§ 1943.82 Loan docket processing.

(a) Forms. * * *

FmHA Form No.	Name of form	Total No. of copies	Signed by borrower	Loan docket	Copy for borrower
1924-14	Farmer Program Borrower Responsibilities.....	2	2	1-0	1-C

Subpart C—Insured Recreation Loan Policies, Procedures, and Authorizations

5. As proposed in § 1943.132, paragraph (a) is amended by adding in numerical sequence, a new entry 1924-14 to read as follows:

§ 1943.132 Loan docket processing.

(a) Forms. * * *

FmHA Form No.	Name of form	Total No. of copies	Signed by borrower	Loan docket	Copy to borrower
*1924-14	Farmer Program Borrower Responsibilities.....	2	2	1-0	1-C

PART 1945—EMERGENCY**Subpart B—Emergency Loan Policies, Procedures and Authorizations For Those Applications Associated With Disaster Designations Having A Beginning Incidence Period Date Prior To May 26, 1981****Exhibit A [Amended]**

6. As proposed in Exhibit A, Paragraph III. A. 6. is amended by adding in numerical sequence a new entry 1924-14 to read as follows:

6. The following FmHA Forms will be used as appropriate:

FmHA Form No.	Name	Use
1924-14	Farmer Program Borrower Responsibilities	

Subpart C—Economic Emergency Loans**Exhibit A [Amended]**

7. As proposed in Exhibit A, paragraph A. is amended by adding, in numerical sequence, a new entry 1924-14 to read as follows:

A. Application Interview. * * *

Form No.	Name	EE
1924-14	Farmer Program Borrower Responsibilities	

Subpart D—Emergency Loan Policies, Procedures and Authorizations, For Applications Associated With FmHA Disaster Designations Having A Beginning Incidence Period Date On Or After May 26, 1981**Exhibit A—[Amended]**

8. As proposed in Exhibit A, Paragraph III. A. 6. is amended by adding in numerical sequence, a new entry 1924-14 to read as follows:

6. The following FmHA Forms will be used as appropriate:

Form No.	Name	Use
1924-14	Farmer Program Borrower Responsibilities	

(7 U.S.C. 1989; 7 CFR 2.23; 7 CFR 2.70)

Dated: October 8, 1981.

Charles W. Shuman,
Administrator, Farmers Home
Administration.

[FR Doc. 81-31818 Filed 11-3-81; 8:45 am]

BILLING CODE 3410-07-M

DEPARTMENT OF ENERGY**Economic Regulatory Administration****10 CFR Parts 504 and 508****Powerplant and Industrial Fuel Use Act of 1978; Proposed Removal of Requirements for Approval of System Compliance Plans and Special Rule**

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Department of Energy is proposing that 10 CFR Part 504 be amended to remove § 504.4, "Electric utility system compliance option," and that part 508 "Special Rule for Temporary Public Interest Exemption" be rescinded. This notice seeks comments on the proposed amendments.

COMMENT DATE: Written comments are due by December 4, 1981.

ADDRESS: All comments should be addressed to Public Hearing Management, Docket No. ERA-R-81-13, Department of Energy, Room B-210, 2000 M Street, NW., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT: Jack Vandenberg, Economic Regulatory Administration, Department of Energy, Room 7120, 12th and Pennsylvania Avenue, NW., Washington, D.C. 20461.

Robert L. Davies, Office of Fuels Conversion, Economic Regulatory Administration, Department of Energy, Room 3002, 2000 M Street NW., Washington, D.C. 20461. (202) 653-3649

Henry K. Garson, Office of General Counsel, Department of Energy, Room 6B-078, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585. (202) 252-2967

SUPPLEMENTARY INFORMATION:**I. Background Information**

Section 501 of the Powerplant and Industrial Fuel Use Act of 1978 ("FUA") authorizes utilities which own or

operate powerplants subject to the general prohibitions against the use of natural gas by existing powerplants contained in Title III of FUA to elect to be covered by a system compliance plan. Upon approval by the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) of such a plan, the utility would be considered in compliance with any prohibition under Title III relating to the use of natural gas. ERA promulgated regulations, at 10 CFR 504.4, which established the requirements for approval of system compliance plans and established the deadline for submission of such plans to ERA as August 1, 1980.

Section 1021 of the Omnibus Budget Reconciliation Act of 1981 ("OBRA") amended Title III of FUA by repealing former section 301(a), which contained the general prohibitions against use of natural gas as a primary energy source by existing electric powerplants.

In view of the repeal by OBRA of the general prohibitions against the use of natural gas by existing electric powerplants contained in Title III of FUA, ERA has determined that 10 CFR 504.4 should be rescinded because the need no longer exists to further process or approve these compliance plans. Therefore in the interest of simplifying and streamlining ERA's FUA regulations, ERA is issuing this proposed rulemaking to amend 10 CFR Part 504 by removing § 504.4, "Electric utility system compliance option."

In addition, in response to the repeal under OBRA of the former section 301(a) of FUA, ERA is proposing to rescind the so-called "Special Rule," 10 CFR Part 508, authorizing temporary public interest exemptions from those former prohibitions.

When finalized, as a result of these actions, ERA will no longer process pending system compliance plans of enforce any terms and conditions which were imposed on approved plans. Similarly, ERA will not process any petitions for exemption under the Special Rule nor will it enforce the terms and conditions attached to any exemptions which have already been granted.

II. Procedural Matters

(a) *Section 102 of the National Environmental Policy Act (NEPA).* The Assistant Secretary for Environmental

Protection, Safety, and Emergency Preparedness has determined that this regulation would not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of section 102(2)(c) of NEPA. Therefore, the preparation of an Environmental Impact Statement for this rule is not required.

(b) *Regulatory Flexibility Act.* ERA has determined that these procedures will primarily impact large public utilities. Therefore, ERA certifies that the promulgation of this rule will not have a significant economic impact on a substantial number of "small entities" within the meaning of the Regulatory Flexibility Act. Therefore, a regulatory flexibility analysis has not been prepared.

(c) *Executive Order 12291.* ERA has determined that the amendment to 10 CFR Part 504 is not a major rule as defined in Executive Order 12291, as it will not be likely to result in (1) an annual effect on the economy of \$100 million or more; (2) a major increase in costs or prices for consumers or individual industries; Federal, state, or local government agencies; or geographic regions; or (3) significant adverse effects on competition, employment, investment productivity, innovation, or on the ability of United States based enterprises in domestic or export markets.

(Department of Energy Organization Act, Pub. L. 95-61, 42 U.S.C. 7101 *et seq.*; as amended, 15 U.S.C. 79 *et seq.*; Powerplant and Industrial Fuel Use Act of 1976, Pub. L. 95-620, 42 U.S.C. 8301 *et seq.*; Omnibus Budget Reconciliation Act of 1981, Pub. L. 97-35)

PART 504—EXISTING FACILITIES

§ 504.4 [Removed]

PART 508—SPECIAL RULE FOR TEMPORARY PUBLIC INTEREST EXEMPTION [REMOVED]

For the reasons set out in the preamble, Chapter II, Title 10 of the *Code of Federal Regulations* is proposed to be amended by removing § 504.4 and Part 508.

Issued in Washington, D.C. on October 23, 1981.

Rayburn Hanzlik,
Administrator, Economic Regulatory
Administration.

[FR Doc. 81-31907 Filed 11-3-81; 8:45 am]

BILLING CODE 6450-01-M

FEDERAL HOME LOAN BANK BOARD

12 CFR Parts 544, 563, and 577

[No. 81-652]

Amendments Relating To Issuance of Mutual Capital Certificates

Dated: October 29, 1981.

AGENCY: Federal Home Loan Bank Board.

ACTION: Proposed rule.

SUMMARY: The Board proposes to amend its regulations concerning mutual capital certificates by providing that Federal mutual savings and loan associations and Federal mutual savings banks may adopt Board pre-approved charter amendments authorizing the issuance of mutual capital certificates without a special proxy solicitation, and that state-chartered mutual savings and loan institutions, the accounts of which are insured by the FSLIC, may issue mutual capital certificates pursuant to the Board's regulations provided that they adopt appropriate charter amendments authorizing their issuance in accordance with applicable state law. The proposed amendments are intended to facilitate the issuance of mutual capital certificates.

Comments must be received by:
December 4, 1981.

ADDRESS: Send comments to Information Services, Office of General Counsel, Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552. Comments will be available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT: Harry M. Zimmerman, Jr. (202-377-6459) or John P. Soukenik (202-377-6427), Office of General Counsel, Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552.

SUPPLEMENTARY INFORMATION: On November 21, 1980, the Board adopted regulations providing for the issuance of mutual capital certificates by Federal mutual savings and loan associations, Federal mutual savings banks, and state-chartered mutual savings and loan institutions the accounts of which are insured by the Federal Savings and Loan Insurance Corporation ("FSLIC"). Those regulations require that institutions secure a majority of eligible membership votes through a special proxy solicitation in order to amend their charters to authorize the issuance of mutual capital certificates (12 CFR 544.2-1, 563.7-4(d) and 577.1-1).

Since adoption of the mutual capital certificate regulations, the Board has considered further the necessity for a special membership vote authorizing a

charter amendment for mutual capital certificate issuance. The Board has particularly examined the impact of such an issuance on liquidation rights and voting rights of members of mutual institutions, in light of the expenses associated with a special proxy solicitation which in some instances would be so substantial as to significantly reduce the efficacy of mutual capital certificates as a means to raise capital for mutual institutions.

Impact on Members' Rights

Mutual capital certificates are subordinate to all claims against the issuing institution having the same priority as savings accounts, savings certificates, debt obligations or claims of any higher priority (12 CFR 563.7-4(1)(2)(i)), and they constitute a preferred claim in liquidation over that of the mutual members in an amount not exceeding the face value of the certificates plus accrued dividends (12 CFR 563.7-4(1)(2)(iii)). Because the claim of mutual capital certificates against the surplus of a liquidated institution is limited to the risk capital advanced by the mutual capital certificate holders, plus accrued dividends, and because liquidations of associations have been extremely rare occurrences, the Board has found that the liquidation preference rights of mutual capital certificates do not substantially impair the rights of mutual members.

Mutual capital certificate holders may be given the right to elect a maximum of one-third of the issuing institution's board of directors if the institution fails to pay dividends for a minimum of three consecutive dividend periods, and the right to vote with respect to certain adverse corporate actions (12 CFR 563.7-4(1)(2)(vii)). The Board has found that these limited permissive voting rights do not substantially impair the voting rights of mutual members.

Congress specifically authorized the Board in section 407(a) of the Depository Institutions Deregulation and Monetary Control Act of 1980 to provide for the issuance of mutual capital certificates "[i]n accordance with the rules and regulations issued by the Board." Because the Board has found that the liquidation and voting preference rights of mutual capital certificates will not substantially impair the rights of mutual members, the Board has determined that there is no requirement that Federal mutual savings and loan associations and Federal mutual savings banks undertake a special proxy solicitation or secure the vote of a majority of all membership votes before they may

amend their charters to authorize the issuance of mutual capital certificates.

Therefore, in order to facilitate the issuance of mutual capital certificates, the Board is proposing that Federal mutual savings and loan associations and Federal mutual savings banks may amend their charters to authorize the issuance of mutual capital certificates without a special proxy solicitation or the approval of a majority of all eligible votes. Under the proposed regulations, a charter amendment authorizing the issuance of mutual capital certificates could be adopted at any legal meeting of the membership of a Federal mutual savings and loan association or a Federal mutual savings bank by a majority of the votes represented at the meeting in person or by proxy. In addition, the proposed amendments would streamline the procedures for adoption of the mutual capital certificate charter provisions by providing Board pre-approved charter amendments and deleting the requirement of §§ 544.2-1 and 577.1-1 that Federal mutual savings and loan associations and Federal mutual savings banks secure final Board approval of the charter amendment.

With respect to state-chartered savings and loan institutions the accounts of which are insured by the FSLIC, under the proposed amendments those institutions could apply to the Board for approval of the issuance of mutual capital certificates provided they have adopted appropriate charter, constitution or bylaw provisions in accordance with applicable law.

Initial Regulatory Flexibility Analysis

Pursuant to Section 3 of the Regulatory Flexibility Act, Pub. L. No. 96-354, 94 Stat. 1164 (September 13, 1980), the Board is providing the following regulatory flexibility analysis.

1. *Reasons, objective and legal basis underlying the proposed rule.* These elements have been incorporated elsewhere in the supplementary information regarding the proposal.

2. *Small entities to which the proposed rule will apply.* The proposed rule will apply only to institutions the accounts of which are insured by the FSLIC.

3. *Impact of the proposed rules on small institutions.* The proposal would remove special voting and proxy solicitations requirements regardless of an institution's size. To the extent that small institutions seek to issue mutual capital certificates, the proposal would benefit them in eliminating mutual capital certificate special proxy solicitation expenses.

4. *Overlapping or conflicting Federal rules.* There are no known Federal rules

that may duplicate, overlap or conflict with the proposal.

5. *Alternatives to the proposed rule.* The proposal would eliminate several existing regulatory requirements governing mutual capital certificates. Any alternative to elimination of these requirements would lessen flexibility afforded institutions and would increase the cost of compliance.

Regulatory Analysis

The elements of regulatory analysis for major proposed regulations required by Board Resolution No. 80-584 (September 11, 1980) have been incorporated into the supplementary information regarding the proposal.

Accordingly, the Federal Home Loan Bank Board hereby proposes to amend Parts 544, 563 and 577, in Subchapters C, D and E, respectively, Chapter V of Title 12, Code of Federal Regulations, as set forth below.

SUBCHAPTER C—FEDERAL SAVINGS AND LOAN SYSTEM

PART 544—CHARTER AND BYLAWS

1. Amend paragraph (a) of § 544.1 to read as follows:

§ 544.1 Issuance of charter.

(a) *Charter N.* Except as provided in paragraph (b) of this section, when the Board approves a petition for a charter for a Federal association under Section 5(a) or Section 5(i) of the Act, it shall issue a charter in the following form known as Charter N.

2. Amend § 544.2 by adding new paragraph (h) to read as follows:

§ 544.2 Amendment of charter.

(h) *Mutual capital certificates.* Remove section 11 and add new sections 11 and 12, to read as follows:

11. *Mutual capital certificates.* The association may issue mutual capital certificates pursuant to the rules and regulations of the Board. Subject to such rules and regulations, the board of directors of the association is authorized without the prior approval of the members of the association and by resolution or resolutions from time to time adopted by the board of directors and approved by the Board, to provide in supplementary sections hereto for the issuance of mutual capital certificates and to fix and state the voting powers, designations, preferences and relative, participating, optional or other special rights of the certificates and the qualifications, limitations and restrictions thereon.

Members of the association shall not be entitled to preemptive rights with respect to the issuance of mutual capital certificates, nor shall holders of such certificates be entitled to preemptive rights with respect to

any additional issues of mutual capital certificates.

12. *Amendment of charter.* No amendment, addition, alteration, change, or repeal of this charter shall be made, except as may be otherwise authorized by the board, unless such proposal is made by the board of directors of the association, submitted to and approved by the Board, and thereafter submitted to and approved by the members at a legal meeting. Any amendment, addition, alteration, change, or repeal so acted upon and approved shall be effective, if filed with and approved by the Board, as of the date of the final approval of, or as fixed by, the members, or the board of directors in the case of supplementary sections to Section 11 of this charter, provided, however, that holders of mutual capital certificates may be granted in supplementary sections to Section 11 of this charter the right to vote on amendments, additions, alterations, changes, or repeals of this charter in any of the instances set forth in section 563.7-4(l)(2)(vii)(b) through (f).

§ 544.2-1 [Removed]

3. Remove § 544.2-1.

SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

PART 563—OPERATIONS

4. Revise paragraph (d) of § 563.7-4 to read as follows:

§ 563.7-4 Mutual capital certificates.

(d) *Charter amendment.* No application for approval of the issuance of mutual capital certificates pursuant to this section may be filed unless the amendment to the mutual institution's charter, constitution or bylaws or other actions conferring such authority shall have been approved pursuant to the procedures and requirements set forth in the mutual institution's charter, constitution or bylaws, or as may otherwise be required by applicable law.

SUBCHAPTER E—RULES AND REGULATIONS FOR FEDERAL MUTUAL SAVINGS BANKS

PART 577—CHARTER AND BYLAWS

5. Amend the first sentence of § 577.1 to read as follows:

§ 577.1 Prescribed form.

Unless otherwise authorized by the Board, and until amended pursuant to the procedures set forth in the charter, a Federal mutual savings bank shall operate under a charter of the following form.

6. Revise paragraph (a) of § 577.1-1 to read as follows:

§ 577.1-1 Mutual capital certificate amendment.

(a) *Approval of mutual capital certificate charter amendment.* This section constitutes approval by the Board of the amendments to the charter of a Federal mutual savings bank set forth in paragraph (b) of this section.

7. Remove paragraphs (c) and (d) of § 577.1-1.

(Sec. 5, 48 Stat. 134, as amended; 12 U.S.C. 1404. Secs. 402, 403, 406, 48 Stat. 1256, 1257, 1259, as amended; 12 U.S.C. 1725, 1726, 1729. Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943-48 Comp., p. 1071)

By the Federal Home Loan Bank Board.
J. J. Finn,
Secretary.

(FR Doc. 81-31999 Filed 11-3-81; 8:45 am)
BILLING CODE 5720-01-M

**FEDERAL TRADE COMMISSION
16 CFR Part 13**

[File No. 811-0118]

Gifford-Hill-American, Inc.; Proposed Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order, accepted subject to final Commission approval, would require, among other things, a Grand Prairie, Texas, producer and seller of concrete pressure pipe and fittings, to timely divest the entire "Kansas City Plant" to a Commission-approved buyer, capable of maintaining the plant as a competitive entity. Additionally, for a five-year period, the company would be required to offer the acquirer of the divested plant the opportunity to purchase essential products and services which are not generally available. The order would also prohibit the company from acquiring any concern engaged in the production of concrete pressure pipe without prior Commission approval for a period of ten years.

DATE: Comments must be received on or before January 4, 1982.

ADDRESS: Comments should be directed to: Office of the Secretary, Federal Trade Commission, 6th St. and Pennsylvania Ave. NW., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT:
FTC/CS-7, Jerry A. Philpott,

Washington, D.C. 20580. (202) 724-1118.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist and an explanation thereof, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(14) of the Commission's Rules of Practice (16 CFR 4.9(b)(14)).

United States of America Before Federal Trade Commission

In the Matter of Gifford-Hill-American, Inc., a Corporation

File No. 811-0118, Agreement Containing Consent Order

The Federal Trade Commission having initiated an investigation of the acquisition of the Lock Joint Products Division of Interpace Corporation by Gifford-Hill-American, Inc., and it now appearing that Gifford-Hill-American, Inc., hereinafter sometimes referred to as proposed respondent, is willing to enter into an agreement containing an order with respect to the acquisition being investigated.

It is hereby agreed by and between Gifford-Hill-American, Inc., by its duly authorized officers and attorneys, and counsel for the Federal Trade Commission that:

1. Gifford-Hill-American, Inc., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Texas with its offices and principal place of business located at 1003 Meyers Road, Grand Prairie, Texas.
2. Interpace Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware with its office and principal place of business located at 260 Cherry Hill Road, Parsippany, New Jersey.
3. Lock Joint Products Division is the division of Interpace Corporation the preponderance of whose assets are to be purchased by Gifford-Hill-American, Inc., pursuant to the agreement in principle between those companies dated February 27, 1981.
4. The Kansas City Plant is the concrete pressure pipe manufacturing facility located at 5622 Kansas Avenue, Kansas City, Kansas, and to be acquired by Gifford-Hill-American, Inc., from Interpace Corporation as a part of its acquisition of assets of the Lock Joint Products Division.
5. Proposed respondent admits all the jurisdictional facts set forth in the draft of complaint here attached.
6. Proposed respondent waives:

- (a) Any further procedural steps;
- (b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and
- (c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

7. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it, together with the draft of complaint and explanatory material, pursuant to Rule 2.34, will be placed on the public record for a period of sixty (60) days and information with respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the proposed respondent, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

8. This agreement is for settlement purposes only and does not constitute an admission by proposed respondent that the law has been violated as alleged in the draft of complaint here attached.

9. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of Section 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondent, (1) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order in disposition of the proceeding and (2) make information public with respect thereto. When so entered, the order shall have the same force and effect and may be altered, modified, or set aside in the manner and within the same time provided by statute for other orders. The order shall become final upon service. Mailing of the complaint and decision containing the agreed-to order to the proposed respondent's address as stated in this agreement shall constitute service. Proposed respondent waives any right it may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation or interpretation not contained in the terms of the order or this agreement may be used to vary or contradict the terms of the order.

10. Proposed respondent has read the proposed complaint and order contemplated hereby. It understands that once the order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the order, and that it may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

For purposes of this Order,
(a) "Respondent" means Gifford-Hill-American, Inc., its subsidiaries, affiliates other than Ameron, Inc., and Gifford Hill & Co., Inc., divisions, successors, and assigns;

(b) "Kansas City Plant" means the concrete pressure pipe facility located in Kansas City, Kansas, acquired by respondent from Interpace Corporation; and

(c) "Lock Joint Division" means the concrete pressure pipe production assets acquired by respondent from Interpace Corporation.

It is ordered That, within fifteen (15) months from the date on which this order becomes final and subject to the prior approval of the Federal Trade Commission, respondent shall divest absolutely and in good faith the entire Kansas City plant as a viable business concern to a third party that represents that it intends to use the assets in the manufacture, distribution or sale of concrete pressure pipe in the United States. Pending divestiture, respondent shall neither make nor permit any deterioration of the Kansas City plant, except for normal wear and tear, that may impair its operating abilities, competitive viability or market value.

II

It is further ordered That, at the option of the acquirer of the assets of the Kansas City Plant, respondent (including its newly acquired Lock Joint Division) shall for a period of five years from the date of the divestiture required by Paragraph I offer to sell to the acquirer at a commercially reasonable price all joint rings, prestressing wire, molds, and engineering and technical services that are not generally available and are essential to the manufacture of the concrete pressure pipe and related products to be produced by the Kansas City Plant. The price respondent shall charge the acquirer for any such joint ring, prestressing wire, mold or service shall be no less favorable than the price at which respondent makes comparable sales of that variety of product or service to any other concrete pressure pipe manufacturer. If respondent has no such sales to any other concrete pressure pipe manufacturer, then the price shall be the prevailing market price for comparable sales of that variety of product or service.

III

It is further ordered That, for a period of ten (10) years from the date this order becomes final, respondent shall not acquire, without the prior approval of the Federal Trade Commission, directly or indirectly, any stock interest in or assets of any concrete pressure pipe manufacturer in the United States.

IV

It is further ordered That within sixty (60) days after the date this order becomes final, and every sixty (60) days thereafter until respondent has fully complied with the provisions of Paragraph I of this order, respondent shall submit to the Federal Trade Commission a verified written report setting forth in detail the manner and form in which it intends to comply, is complying with, or has complied with that provision. All compliance reports shall include, among other things that are required from time to time, a full description of contacts or negotiations with any party for the sale of properties specified in Paragraph I of this

order, and the identity of all such parties. Respondent shall furnish to the Commission copies of all written communications to and from such parties, and all internal memoranda, reports and recommendations concerning divestiture.

On the date of divestiture and on every anniversary date of the divestiture thereafter for the following five (5) years, respondent shall submit to the Commission a verified written report setting forth the manner and form in which it is complying or has complied with Paragraph II of this order.

On the first anniversary of the date this order becomes final and on every anniversary date thereafter for the following nine (9) years, respondent shall submit to the Commission a verified written report setting forth the manner and form in which it has complied or is complying with Paragraph III of this order.

V

It is further ordered That respondent notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent, such as dissolution, assignment or sale resulting in the emergence of a successor corporation, or any other proposed change in the corporation, which may affect compliance obligations arising out of this order.

Gifford-Hill-American, Inc. and Lock Joint Products Division of Interpace Corporation

Analysis of Proposed Consent Order to Aid Public Comment

The Federal Trade Commission has accepted an agreement to a proposed consent order from Gifford-Hill-American, Inc. ("Gifford-Hill-American") in settlement of a complaint issued against Gifford-Hill-American.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement's proposed order.

The complaint underlying the proposed consent order alleges that Gifford-Hill-American's acquisition of the assets of the Lock Joint Products Division of Interpace Corporation ("Lock Joint") violates Section 7 of the Clayton Act and Section 5 of the Federal Trade Commission Act. Essentially, the complaint alleges that the effect of the acquisition may be substantially to lessen competition or to tend to create a monopoly in the manufacture and sale of pressure pipe, large diameter pressure pipe and concrete pressure pipe in the south central United States. Pressure pipe is used predominantly by public utilities for transporting and distributing

water from lakes, reservoirs or tanks to homes, factories or other consumers. It is also used to bring water to power plants for cooling. Prior to the acquisition, Gifford-Hill-American and Lock Joint were direct competitors, both engaged in manufacturing and selling pressure pipe in the south central United States. The proposed consent order discussed here is intended to lessen any anticompetitive effect which might have resulted because of the loss of a competitor in that area of the country.

To accomplish this goal, the requirements contained in the proposed order focus primarily upon the acquisition of the Lock Joint plant which served the south central United States, the Kansas City plant. If the order is accepted, Gifford-Hill-American will be required to find a suitable buyer for that plant within fifteen months of the date the order is entered. The buyer's suitability will be determined by the Federal Trade Commission and will depend upon whether the buyer will be capable of maintaining the Kansas City plant as a competitive entity in the south central United States. To further assure that the Kansas City plant will continue to provide competition in the area, the proposed order requires that for five years Gifford-Hill-American must offer to sell to the purchaser of the plant specific parts, including joint rings, prestressing wire, molds, and engineering and technical services, which are essential to a manufacturer of concrete pressure pipe. While Gifford-Hill-American still has possession of the plant, it is required to maintain it in good operating condition.

The proposed order also prohibits Gifford-Hill-American from acquiring any concrete pressure pipe manufacturers without prior approval from the Federal Trade Commission for the next ten years. In addition, if the order is accepted Gifford-Hill-American will be required to submit periodic reports to the Commission which detail its compliance with the order to divest, to offer to sell parts, and to refrain from acquiring other pipe manufacturers.

The provisions of the proposed order are intended to maintain at least as much competition between pressure pipe manufacturers in the south central area of the country as presently exists there. By requiring the divestiture of the Kansas City plant as a viable competitor, the intended effects of the proposed order should be accomplished.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of

the agreement and proposed order or to modify in any way their terms.

Carol M. Thomas,
Secretary.

[FR Doc. 81-31905 Filed 11-3-81; 8:45 am]

BILLING CODE 6750-01-M

16 CFR Part 13

[File No. 822 3003]

Renuzit Home Products Co.; Proposed Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.
ACTION: Proposed consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order, accepted subject to final Commission approval, would require, among other things, a Philadelphia, Pa. manufacturer and distributor of transmission and hydraulic fluids and motor oils to cease making any representations concerning the API Service Classification, SAE Viscosity or any performance or quality characteristic of its motor oils unless the company possesses documentation supporting those representations. The company would be further prohibited from misrepresenting the purpose, content, or conclusions of any test or survey, and would be required to furnish all personnel engaged in advertising, quality control or policy-making with a copy of the order.

DATE: Comments must be received on or before January 4, 1982.

ADDRESS: Comments should be directed to: Office of the Secretary, Federal Trade Commission, 6th St. and Pennsylvania Ave., N.W., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: FTC/PE, Lewis Morris, Washington, D.C. 20580, (202) 724-1394.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist and an explanation thereof, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with

§ 4.9(b)(14) of the Commission's Rules of Practice (16 CFR 4.9(b)(14)).

United States of America Before Federal Trade Commission

File No. 822 3003

Agreement Containing Consent Order To Cease and Desist

In the Matter of Renuzit Home Products Co., a corporation.

The Federal Trade Commission having initiated an investigation of certain acts and practices of Renuzit Home Products Co., a corporation, sometimes hereinafter referred to as proposed respondent, and it now appearing that the proposed respondent is willing to enter into an agreement containing an order to cease and desist from the use of acts and practices being investigated,

It is hereby agreed by and between Renuzit Home Products Co., by its duly authorized officer, and counsel for the Federal Trade Commission that:

1. Proposed respondent Renuzit Home Products Co. is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Pennsylvania, with its office and principal place of business at 3rd and Berks Streets, Philadelphia, Pennsylvania, 19122.

2. Proposed respondent admits all the jurisdictional facts set forth in the draft complaint here attached.

3. Proposed respondent waives:

- (a) Any further procedural steps;
- (b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and
- (c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

4. This agreement shall not become a part of the official record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, the agreement, together with the draft complaint contemplated thereby, and related material pursuant to Rule 2.34 of the Commission's Rules will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the proposed respondent, in which event the Commission will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondent that the law has been violated as alleged in the draft complaint here attached.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34(b) of the Commission's Rules, the Commission may, without further notice to proposed respondent: (1) issue its complaint corresponding in form and substance to the draft complaint here attached and its

decision containing the following order to cease and desist in disposition of the proceeding and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and shall become final and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to order to the proposed respondent's address as stated in this agreement shall constitute service. Proposed respondent waives any right it may have to any other manner of service. The complaint may be used in construing the terms of the order, but no agreement, understanding, representation, or interpretation not contained in the order, complaint, or the aforementioned agreement may be used to vary or contradict the terms of the order.

7. Proposed respondent has read the proposed complaint and order contemplated hereby, and understands that once the order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the order, and that it may be liable for a civil penalty as provided by law for each violation of the order after the order becomes final.

Order

Part I

It is ordered That respondent Renuzit Home Products Co., a corporation, its successors and assigns, and its officers, and respondent's agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the manufacture, advertising, offering for sale, sale or distribution of motor oils in or affecting commerce as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

- a. Representing, directly or by implication, that its motor oils are of any American Petroleum Institute (API) Service Classification; or
- b. Representing, directly or by implication, that its motor oils are of any Society of Automotive Engineers (SAE) Viscosity; or
- c. Representing, directly or by implication, any other performance or quality characteristics of its motor oils; unless each representation is true, and unless at the time of making each such representation, respondent possesses and relies upon competent and reliable scientific tests which substantiate each such representation.

For purposes of substantiating representations of the API Service Classification of any motor oil, respondent shall obtain for each such product passing scores on the appropriate engine sequence tests, as described in the then current SAE Technical Report J183, "Engine Oil Performance and Engine Service Classification," or any succeeding document which has the same force and effect as SAE Technical Report J183. In lieu of conducting engine sequence tests on motor oils of its

own formulation, respondent may use a motor oil blend formula developed by another manufacturer, if a motor oil blended to that formula has been tested in a competent and reliable manner by the manufacturer that developed the motor oil blend formula or some other reliable testing facility in the manner set out above and has received passing scores, and respondent possesses true and complete documentation to that effect at the time it makes any representation of the API Service Classification of its own product. The initial testing to determine the API Service Classification of a motor oil manufactured according to any formula used by respondent shall be supplemented by respondent through periodic testing of batches, runs or blending tank lots of its motor oils. The samples to be tested shall be selected according to a predetermined protocol consistent with proper quality control and shall be subjected to tests which indicate the presence and quantity of additives necessary to produce motor oil which conforms to the API Service Classification claimed for respondent's product. Respondent may choose any valid scientific method for the supplemental tests and the sampling protocols as long as the methods and protocols have been approved by the Commission staff.

For purposes of substantiating SAE Viscosity, each motor oil manufactured by respondent shall be tested in accordance with the procedures set out in the then current SAE Technical Report J300d, "Engine Oil Viscosity Classification" or any succeeding document which has the same force and effect as SAE Technical Report J300d, and must receive test scores within the limits described therein.

Each separate batch, run or blending tank lot of motor oil manufactured by respondent shall be tested for SAE Viscosity according to a predetermined protocol consistent with proper quality control and passing scores obtained before respondent makes any representations of the SAE Viscosity of its motor oil products. The sampling protocol to be used must first be approved by the Commission staff.

Attached to this Order and incorporated by reference is a protocol for the supplemental sampling and testing of respondent's motor oils. This protocol has been approved by Commission staff for use by respondent.

Part II

It is further ordered That respondent Renuzit Home Products Co., a corporation, its successors and assigns, and its officers, and respondent's agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the manufacture, advertising, offering for sale, sale or distribution of motor oils in or affecting commerce as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from misrepresenting in any manner the purpose, content, or conclusions of any test or survey pertaining to motor oils.

Part III

It is further ordered That respondent Renuzit Home Products Co., a corporation, its

successors and assigns, and its officers, and respondent's agents, representatives and employees, directly or through any corporation, subsidiary, division or other device in connection with the manufacture, advertising, offering for sale, sale, or distribution of motor oils in or affecting commerce as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from failing to maintain accurately, documentation that substantiates any and all of respondent's statements or representations on labels or other promotional materials disseminated by respondent or by any officer, representative, agent, employee, subsidiary or division of the respondent, concerning the API Service Classification, SAE Viscosity or any other performance or quality characteristic of motor oils. Such documentation shall be retained by respondent for a period of three years from the date such labels or other promotional materials were last disseminated, and copies thereof shall be furnished to the Commission staff upon reasonable notice.

Part IV

It is further ordered That respondent distribute a copy of this order to each of its operating divisions, and to all present or future personnel, agents or representatives having advertising, quality control or corporate policy responsibilities with respect to the subject matter of this order and that respondent secure from each such person a signed statement acknowledging receipt of said order.

Part V

It is further ordered That respondent notify the Commission at least thirty (30) days prior to any proposed change in the respondent, such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of this order.

Part VI

It is further ordered That respondent shall, within sixty (60) days after service upon it of this order, and also one (1) year thereafter, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with this order.

Renuzit Home Products Company Quality Control Protocol

[Date]

(Supersedes Any Previous Protocols)

I. Documentation

A. The purposes for documenting the production of motor oil are to ensure product quality and to allow the identification of the cause of any variation from expected product quality.

B. All blending shall conform to the formulation set out in [name of additive package manufacturer] specification [identification name or number of specification] [(date of specification)].

A motor oil blended to this specification received passing scores in engine sequence tests (SAE Technical Report J183) [test

identification number] on [date of test score report] by [name and address of testing laboratory].

C. Each blend run shall be documented on a Blend Request Form. Each Blend Request Form shall contain the following information for each blend run:

1. blend run identification number;
 2. blending tank number;
 3. blending date;
 4. time blending began;
 5. time blending was completed;
 6. total agitation time;
 7. SAE grade;
 8. API service classification;
 9. blend stock storage tank identification number, and amount by volume of each base stock used in the blend run;
 10. additive storage tank identification number or other container identification, and amount by volume of each additive package, viscosity index improver or other nonbase stock component of the blend;
 11. total volume of final product;
 12. blend formula identification name or number;
 13. blend formulation by percent volume of each component used;
 14. name of the person in charge of producing the blend run;
 15. name of the person taking the blend run quality control sample;
 16. name of the testing laboratory to which the blend run quality control sample is submitted; and
 17. quality control manager's name, approval and date of approval;
 18. identification number of the holding tank the blend run is transferred to; and
 19. date of transfer to the holding tank, if different from the blending date.
- D. All base stock, additives, viscosity index improvers and other components shall be recorded according to the date of delivery, invoice number, manufacturer and storage tank or other container.
- E. All Blend Request Forms, component invoices, lists of blend component code numbers, blend formula specifications, Daily Gallonage Tankage Reports, Production Cards, Daily Production Record, Daily Laboratory Reports, and other documents relevant to a blend run shall be segregated and retained on file for three years after the date each blend run is produced.

II. Blend Sampling

A. Upon completion of a blend run, the blending tank shall be sampled according to the then current ASTM Standard D 270-65 "Standard Method of Sampling Petroleum and Petroleum Products", or any succeeding document that has the same force and effect. The sample should be divided into equal portions.

B. Each blend run quality control sample portion shall be tagged and identified by blend run identification number, tank number, SAE grade, API service classification, and gallonage. Upon completion of identification, one sample portion shall be taken to the laboratory for testing. The other portion shall be retained and safeguarded for one year after the date the run is blended.

III. Blend Approval

A. Packaging of a blended product may not take place under any circumstances until the product has been approved by the Quality Control Manager after examination of the results of the laboratory tests on each blend run.

B. Approval of blended products shall be based on the results of the series of tests listed below. Reference is to the current version of these tests, or any succeeding document that has the same force and effect.

1. Multigrade oils:

a. Grades:

- SAE 10W30 API Service Classification SF-CC
- SAE 10W40 API Service Classification SF-CC
- SAE 10W50 API Service Classification SF-CC
- SAE 20W50 API Service Classification SF-CC

b. Tests Required:

- Kinematic Viscosity @ 210°F—ASTM D445
- Cold Cranking Simulator @ 0°F—ASTM D2602
- API Gravity—ASTM D287
- Color—ASTM D1500
- Elemental analysis of: Barium, Calcium, Magnesium, Phosphorus and Zinc (see Appendix A for analysis procedure)

2. Single-grade oils:

a. Grades:

- SAE 10 API Service Classification SF-CC
- SAE 20 API Service Classification SF-CC
- SAE 30 API Service Classification SF-CC
- SAE 40 API Service Classification SF-CC

b. Tests Required:

- Kinematic Viscosity @ 100°F—ASTM D445
- Kinematic Viscosity @ 210°F—ASTM D445
- Viscosity Index—ASTM D2770
- API Gravity—ASTM D287
- Color—ASTM D1500
- Elemental analysis of: Barium, Calcium, Magnesium, Phosphorus and Zinc (see Appendix A for analysis procedure)

C. The results of the testing listed above shall be recorded by laboratory personnel on the Blend Request Form and the Daily Laboratory Report.

D. Each Blend Request Form shall be reviewed by the Quality Control Manager for final approval. Approval shall be based on the comparison of the test results for the blend run quality control sample to the specifications concerning viscosity set out in SAE Technical Report J300d, "Engine Oil Viscosity Classification", or any succeeding document that has the same force and effect, and data concerning additive levels supplied by [name of additive package manufacturer]. (See [blend formula specifications]).

E. Once final approval is given by the Quality Control Manager, the product shall be entered on the Daily Gallonage Tankage Report, which shall identify each blend by SAE grade, API service classification, tank number, blend run identification number and date blended.

IV. Packaging of Approved Blended Product

The Daily Gallonage Tankage Report shall be used as a guide by the Production Manager when assigning work to the filling lines. Instructions shall be issued via the

Daily Production Record, which shall identify the tank from which oil of a particular viscosity grade and API service classification shall be drawn, the size of containers to be filled, the quantity to be filled, and the date coding to be used. All filled cases of motor oil containers shall be date coded as per the Production Card.

V. Filling Inspection of Approved Product

A. It is the Filling Line Foreman's responsibility to obtain a sample directly from the filling pipe line for each product being filled. A filling sample shall be obtained within the first five minutes of the filling production run, identified by SAE grade, size and type of container being filled and the identification number of the tank the product is being drawn from, and immediately taken to the laboratory. If a large filling production run of the same product is interrupted by a rest or lunch period, another filling sample shall be taken when a new start-up is made.

B. The tests required to be performed by the laboratory on a filling sample are the same as those required for blend run quality control samples under Paragraph III above, with the exception of elemental analysis. Filling shall stop immediately upon discovery of any deviation in the filling sample test results from the blend run quality control sample test results for the product being tested. Filling may resume only if upon the testing of additional filling samples, the product obtains test results conforming to the results from the testing of the blend run quality control sample. All cases filled prior to a stoppage shall be tagged defective and disposed of.

Appendix A

Elemental analysis is performed by: [name of laboratory] A Baird's atomic emission spectrometer or other appropriate equipment shall be used to determine the parts per million of the additive metals in the finished oils. The testing equipment test element shall be calibrated in accordance with the standards for [identification name or number of the blending formula] supplied by [name of additive manufacturer] via Renuzit.

Blend run quality control samples sent to [name of laboratory] for analysis shall be identified by the SAE grade of the product and by the blend run identification number preceded by the number representing the month of the year in which the oil is produced. [Name of laboratory] shall verbally transmit to Renuzit the results of the elemental analysis on the day the analysis of the blend run quality control sample is performed, with written confirmation to be received by Renuzit within five working days after completion of the tests.

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted an agreement to a proposed consent order from Renuzit Home Products Co.

The Proposed consent order has been placed on the public record for sixty (60) days for reception of comments by

interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

The complaint accompanying the consent order charges Renuzit Home Products Co. (hereinafter referred to as "respondent") with dissemination of labels for use on its motor oils containing unfair and deceptive representations regarding the quality of the motor oil. In particular, the complaint alleges that the representations that the motor oil meets API Service specifications and SAE viscosity standards are without substantiation. Respondent made the statements on its motor oil container without a reasonable basis for such representations. The complaint also charges that respondent, by using these claims on its motor oil container, represented that it had a reasonable basis for making the claims when in fact it had no such basis.

The proposed consent order contains the following provisions designed to remedy the violations charged:

Part I prohibits the respondent from representing, directly or by implication, that its motor oils are of any API Service Classification, SAE viscosity or any other performance or quality characteristics unless each representation is true. In addition, the respondent is required to possess and rely on competent and reliable scientific tests which substantiate each such representation.

The scientific tests and sampling protocol to be used for substantiation of representations of the API Service Classification and SAE viscosity of any motor oil are included in Part I of the consent order. Both of these standards are accepted industrywide for such substantiation purposes. For the purpose of substantiating the SAE viscosity of its motor oils, the respondent is required to test each motor oil with the procedure set out in the then current SAE technical report on viscosity classification. For the purpose of substantiating the API Service Classification of its motor oils, the respondent may use either the appropriate engine sequence tests, or a motor oil blend formula developed by another manufacturer if that formula has been subjected to engine sequence tests. Engine sequence tests are performed by running an automobile engine using the test oil and at specified intervals dismantling the engine to measure the wear on engine parts.

Part III requires that the respondent to maintain accurate documentation that substantiates all the respondent's representations on labels or other promotional materials concerning API Service Classification, SAE viscosity or any other characteristics of motor oils. The respondent is required to retain this documentation for three years from the date the labels or promotional materials were last disseminated.

Part IV requires that respondent distribute a copy of the order to all employees engaged in advertising, quality control or corporate policymaking.

Part V requires that respondent notify the Commission at least thirty (30) days before any proposed structural change in the corporation occurs that may affect compliance with the order.

Part VI requires that respondent file a compliance report with the Commission within sixty (60) days after the effective date of the order.

Also attached to the consent order is a protocol for the supplemental sampling and testing of the respondent's motor oils. The protocol sets out requirements for oil blend sampling, documentation and review by quality control personnel. This testing program should indicate the presence and quality of additives necessary to produce oils in conformance with the API Service Classification and SAE viscosity claimed for the respondent's product. Each blend run must be documented as detailed in the protocol and the documentation must be retained for three years after the date of each blend run.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

Carol M. Thomas,
Secretary.

[PR Doc. 81-31906 Filed 11-3-81; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 840

State Regulatory Authority Inspection and Enforcement; Petition to Repeal Public Participation Provision

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

ACTION: Consideration of petition to repeal Final rule.

SUMMARY: OSM hereby postpones consideration of a petition to repeal a portion of 30 CFR 840.15, concerning the requirement that each State program provide for public participation consistent with 43 CFR Part 4. Specifically, the petition seeks repeal of 43 CFR 4.129(b) which permits the award of appropriate costs and expenses to certain persons participating in any proceedings under the Act as a requirement of State programs. Since OSM is now reviewing all of its permanent program regulations, the Office will consider this petition as part of that effort.

FOR FURTHER INFORMATION CONTACT: Neil H. Stoloff, Enforcement Specialist, Division of Regulation and Inspection, Office of Surface Mining, U.S. Department of the Interior, Interior South Building, 1951 Constitution Avenue, N.W., Washington, D.C. 20240; (202) 343-4217.

SUPPLEMENTARY INFORMATION: On March 13, 1979, OSM issued permanent program regulations which include the requirement that each State program provide for public participation consistent with 43 CFR Part 4 (44 FR 15456).

A petition of November 21, 1980, later clarified by a letter of May 12, 1981, to amend Subchapter 1 has been submitted to OSM by the State of Colorado on behalf of the following States: Colorado, Utah, Montana, New Mexico, Wyoming and North Dakota (the petition and the clarifying letter are Appendices A and B hereto, respectively). The petition seeks to amend 30 CFR 840.15 by deleting the requirement that each State program provide for public participation consistent with 43 CFR 4.1294(b).

The regulations at 43 CFR Part 4 describe the procedures applicable to hearings and appeals before the Interior Board of Surface Mining Appeals (Board). Specifically, 43 CFR 4.1294(b) permits the award of appropriate costs and expenses, including attorneys' fees—

To any person other than a permittee or his representative from OSM, if the person initiates or participates in any proceeding under the Act upon a finding that the person made a substantial contribution to a full and fair determination of the issues.

30 CFR 840.15 operates to make this provision a requirement of each State program. The petition and clarifying letter state that 43 CFR 4.1294(b) as applied to State programs through 30 CFR 840.15 is arbitrary, capricious and inconsistent with all applicable law,

including Section 525(e) of the Surface Mining Control and Reclamation Act of 1977 (SMCRA).

OSM will propose changes to certain of its permanent program regulations as part of its review of all such regulations. OSM believes that this petition should logically be considered as part of that rulemaking effort. Therefore, OSM will include consideration of this petition, and will solicit public comments on it, at that time.

Availability of copies

Copies of the petition and clarifying letter (published here as Appendices A and B) and copies of 30 CFR Chapter VII Subchapter L, are available for inspection and may be obtained at OSM Headquarters, Department of the Interior, South Building, room 153, 1951 Constitution Avenue, N.W., Washington, D.C. 20240; (202) 343-4728.

Dated: October 28, 1981.

J. Steven Griles,

Acting Director, Office of Surface Mining Reclamation and Enforcement.

Appendix A—Petition of the State of Colorado

1. Petitioners' names and addresses are:

- Mined Land Reclamation Division,
Colorado Department of Natural Resources, 1313 Sherman Street, 4th Floor, Denver, Colorado 80203
- Division of Oil, Gas and Mining, State of Utah, 1588 West North Temple, Salt Lake City, Utah 84116
- Montana Department of State Lands, Capitol Station, Helena, Montana 59601
- Mining and Minerals Divisions, Energy and Minerals Department, P.O. Box 2860, Santa Fe, New Mexico 87503
- Wyoming Department of Environmental Quality, State Office Building West, Cheyenne, Wyoming 82002
- North Dakota Public Service Commission, State Capitol Building, Bismarck, North Dakota 58505

Petitioners are the agencies of State government authorized by law to regulate surface coal mining operations in their respective States.

2. Pursuant to 30 U.S.C. 1211(g) and 30 CFR 700.12, petitioners request the Office of Surface Mining to repeal 43 CFR 4.1294(b) which provides that appropriate costs and expenses incurred in administrative proceedings under the Surface Mining Control and Reclamation Act of 1977 (SMCRA), 30 U.S.C. 1201 *et seq.*, may be awarded "to any person other than a permittee or his representative from OSM, if the person initiates or participates in any

proceeding under the Act upon a finding that the person made substantial contribution to a full and fair determination of the issues."

3. Petitioners submit that 43 CFR 4.1294(b) is arbitrary, capricious and inconsistent with all applicable laws including Section 525(e) of SMCRA, 30 U.S.C. 1275(e), which said rule purportedly implements. Petitioners concur in Colorado's attached brief in support of the petition to repeal 43 CFR 4.1294(b).

4. Petitioners do not request a public hearing on this petition.

The Mined Land Reclamation Division of the State of Colorado, by its attorney, Richard L. Griffith, Assistant Attorney General of Colorado, submits to the Office of Surface Mining this brief in support of the petition to repeal 43 CFR 4.1294(b).

Summary of the Argument

1. 43 CFR 4.1294(b) (hereinafter "the regulation") should be repealed because it is arbitrary, capricious, and inconsistent with 30 U.S.C. 1275(e) of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), 30 U.S.C. 1201 *et seq.*

2. The regulation should be repealed as arbitrary, capricious and otherwise inconsistent with law because the Office of Surface Mining (OSM) has no inherent authority to fund the participation by initiators of or intervenors in administrative hearings.

Argument

I

THE REGULATION SHOULD BE REPEALED AS ARBITRARY, CAPRICIOUS, AND INCONSISTENT WITH THE INTENT OF 30 U.S.C. 1275(e) OF THE SURFACE MINING CONTROL AND RECLAMATION ACT OF 1977, 30 U.S.C. 1201 *ET SEQ.*

The regulation provides that costs and expenses may be awarded "to any person other than a permittee or his representative from OSM, if the person initiates or participates in any proceeding under the Act upon a finding that the person made a substantial contribution to a full and fair determination of the issues." That provision is purportedly authorized by Section 525(e) of SMCRA, 30 U.S.C. 1275(e), which reads in pertinent part:

(e) Whenever an order is issued * * * as a result of any administrative proceeding under this Act, at the request of any person, a sum equal to the aggregate amount of all costs and expenses (including attorney's fees) or in connection with his participation in such proceedings * * * may be assessed against either party as the * * * Secretary * * * deems proper.

The legislative history of Section 525(e) and the analogous Section 520(d), which permits the award of costs "to any party" in a citizen's suit "whenever the court determines such award is appropriate," clearly supports the position that the regulation does not include "proper" circumstances for the award of costs in administrative proceedings.

A Senate Committee directly opposed the principle of 43 CFR 4.1294(b) in stating that Section 520(d) did not "convey the right for a citizen to sue the government for the costs of litigation." S. Rpt. No. 128, 95th Congress, 1st Session 88 (1977). In addition, both the House of Representatives and the Senate were presented with proposals to fund citizen participation in administrative proceedings under SMCRA and failed to adopt them. In testimony on H.R. 2 and S. 7 upon which SMCRA was based, J. McAteer and Thomas Galloway of the Council of the Southern Mountains advocated the inclusion in SMCRA of language which would have authorized the Secretary to award attorney's fees and other costs of participation to persons "deemed capable of making substantial contributions to a fair resolution of the issues involved in agency proceedings, who are financially unable to sustain the costs of such participation." Hearings on H.R. 2 before the Subcommittee on the Environment of the House Committee on Interior and Insular Affairs, 95th Congress, 1st Session 488 (1977) (hearing serial No. 95-1, Part IV) (testimony of J. McAteer and Thomas Galloway) and Hearings on S.7 before the Subcommittee on Minerals, Materials and Fuels of the Senate Committee on Energy and Natural Resources, 95th Congress, 1st Session, 1099 (1977) (hearing serial No. 95-32) (testimony of J. McAteer and Thomas Galloway). Within a month following that testimony, the Carter Administration, in a letter from Secretary of the Interior Andrus to Congressional Committees, expressed opposition to the award of attorneys' fees against the United States in an administrative proceeding. H.R. Rep. No. 218, 95th Congress, 1st Session, 158 reprinted in (1977) *U.S. Code Cong. and Ad. News* 593, 589 and S. Rep. No. 128, 95th Congress, 1st Session 115 (1977). The failure of Congress to adopt specific authority to fund citizen participants, in spite of the proposal before it to do so, coupled with the Senate Committee's and the Administration's expressed opposition to such funding leads to the conclusion that Congress did not authorize such funding under Section 525(e). Thus, the regulation is

inconsistent with the intent of Section 525(e) and beyond the authority of OSM and the Secretary of the Interior to promulgate.

Furthermore, the legislative history contains several expressions of positive intent with regard to "proper" circumstances, none of which states that OSM may be taxed for a citizen's (other than a permittee's) cost of participation. An example of such intent is that attorneys' fees may be awarded "to the permittee or government when the suit or participation is brought in bad faith." S. Rep. No. 128, 95th Congress, 1st Session 59 (1977). In addition, the intent of Section 520(e) is "to provide the traditional remedy of reasonable counsel fee awards to private citizens who go to court to insure the Act's requirements are being met." H.R. Rep. No. 218, 95th Congress, 1st Session 90 reprinted in (1977) *U.S. Code Cong. and Ad. News* 593, 626-627. The "traditional remedy" has been to award the costs and attorney's fees of a citizen plaintiff from a defendant company in violation of environmental protection statutes, and not from an agency charged with enforcing such statutes. See *Delaware Citizens for Clean Air, Inc. v. Stauffer Chemical Co.*, 62 F.R.D. 353 (1974); *Alyeska Pipeline Service v. Wilderness Society*, 421 U.S. 240, 44 L. Ed. 2d 141, 95 S. Ct. 1612 (1975); and S. Rep. No. 414, 92nd Congress, 2nd Sess. reprinted in (1972) *U.S. Code and Ad. News*, 3447 (discussing attorney's fee awards in environmental lawsuits). The failure to specify in the committee reports that the non-traditional remedy of the regulation was intended, especially in view of the aforesaid statements of interest, is strong evidence that the regulation exceeds statutory intent.

That conclusion is supported by the fact that where Congress has granted authority for an agency to fund participants in administrative proceedings, the language of the statute clearly outlines the authority. See 15 U.S.C. 57a(h)(1) (allowing the Federal Trade Commission to provide compensation for attorney's fees and other costs of persons participating in a rulemaking proceeding) and 15 U.S.C. 2605(c)(4)(A) (granting the Environmental Protection Agency the authority to compensate parties participating in a rulemaking proceeding under the Toxic Substances Control Act). It can be inferred from the absence of such language in Section 525(e) that authority to award costs of participants in OSM proceedings was not intended.

II

THE REGULATION IS ARBITRARY, CAPRICIOUS, AND OTHERWISE INCONSISTENT WITH LAW BECAUSE OSM HAS NO INHERENT FUNDING AUTHORITY.

Although the U.S. Comptroller General has determined that several Federal agencies have inherent authority to fund the participation by citizens in agency proceedings under certain specified conditions, the United States Second Circuit Court of Appeals has ruled that such authority does not exist in the Federal Power Commission. *Greene County Planning Board v. Federal Power Commission*, 559 F.2d 1227 (2d Cir. 1976, *rev'd en banc*, 559 F.2d 1237, 1239, (2d Cir. 1977) *cert. denied*, 434 U.S. 1086, 98 S. Ct. 1280. The Court reasoned that no officer or agency of the United States may disburse public money unless authorized by Congress to do so, and that the Comptroller General could not set the conditions under which payments to intervenors, if any, should be made. *Id.* at 1239. The Court stated that:

In light of the Supreme Court's very broad language in *Alyeska Pipe Line Service Company v. Wilderness Society*, 421 U.S. 240, 257, 44 L. Ed 2d 141, 95 S. Ct. 1612, 1621 (1975) that absent statute or enforceable contract, litigants pay their own attorney's fees, a finding that the Federal Power Commission is empowered to reimburse intervenors for their legal expenses must await appropriate congressional action.

Id. at 1239-40. *Greene County* involved intervenors in hearings on a power line route who successfully urged the selection of an alternate route and requested the Federal Power Commission to reimburse them for their litigation expenses. The rationale of the case is applicable to the funding of citizen participants in administrative proceedings of other Federal agencies, including OSM. Assuming *arguendo* that some Federal agencies have inherent funding authority, the legislative history and intent of Section 525(e) of SMCRA as outlined above clearly negate any such implied authority in OSM. Thus, OSM has no inherent funding authority to justify the regulation, and it is arbitrary, capricious, and otherwise inconsistent with law.

Conclusion

For the foregoing reasons, petitioner Mined Land Reclamation Division of Colorado respectfully moves OSM to repeal 43 CFR 4.1294(b).

Appendix B—Clarifying Letter of May 12, 1981

Thank you for sending us the copy of the letter the Office of Surface Mining

sent to me December 31, 1980, which we never received. It is our intent that the petition in the matter of repealing 43 CFR 4.1294(b) should be considered to repeal the requirement of 30 CFR 840.15 that "each state program shall provide for publication participation in enforcement of state program consistent with * * * and 43 CFR 4".

We look forward to your review of this issue and believe that you will find that our petition is proper and correct.

Thank you for your assistance in this matter.

[FR Doc. 81-31053 Filed 11-3-81; 6:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF THE TREASURY

Fiscal Service

31 CFR Part 240

Extension of the Treasury's Reclamation Authority

AGENCY: Bureau of Government Financial Operations, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: Treasury has experienced increasing reluctance and/or refusal on the part of banks receiving payment on Treasury checks bearing forged or unauthorized endorsements to honor Treasury's right under 31 CFR 240.4 and 240.5 to refund of the amounts paid. This Proposed Rule would give Treasury a contract right to recover those amounts, and accrued interest, from the reserve accounts with Federal Reserve Banks of banks which present the checks for payment. This "setoff" recovery mechanism is intended to improve Treasury's debt collection efforts.

EFFECTIVE DATE: Comments on this Notice must be received on or before January 6, 1982, at the address shown under "FOR FURTHER INFORMATION CONTACT".

FOR FURTHER INFORMATION CONTACT:

Mr. John O. Turner, Assistant Commissioner, Disbursement and Claims, Room 632, Annex Building, Pennsylvania Avenue and Madison Place NW., Washington, D.C. 20226, (202) 566-2392.

SUPPLEMENTARY INFORMATION: The goal of the proposed regulation is more effective debt collection. Pursuant to the Federal Claims Collection Act of 1966, the Secretary of the Treasury has the duty to attempt collection of all claims of the United States for money or property arising out of the activities of, or referred to Treasury. See 31 U.S.C. 952; 4 CFR 102.3.

Background

The majority of payments made for civilian Federal agencies are made for those agencies by disbursing officers of the Department of the Treasury, in response to certifications by those agencies that particular payments are necessary and proper. Treasury disbursed payments take a number of forms, including checks mailed to the addresses of persons to whom payments are owed, and checks mailed to financial organizations designated by persons to whom payments are owed for credit to those persons' accounts.

Military Federal agencies have their own disbursing or finance officers. However, military disbursing officers also use Treasury check stock to make payments. Regardless of the agency which disburses a payment, if the payment is made in the form of a Treasury check, the check must be presented through a Federal Reserve Bank to the Treasury Department for payment. Conditional payment is effected by a credit to a reserve or other account which is both with the Federal Reserve Bank through which the check is presented for payment and used by the presenting bank. See, 31 CFR 240.3.

On occasion, Treasury checks do not reach, or are lost by or stolen from, the intended payees. These checks are sometime endorsed by persons not entitled to them, and paid over those forged or unauthorized endorsements. When this occurs, Treasury has paid out money but has not secured acquittance for the United States on its underlying obligation to the intended payee. To address this problem, Treasury regulations at 31 CFR Part 240 have provided for many years that the presenting bank and the other endorers of a check presented to Treasury for payment guarantee that all prior endorsements are genuine or authorized. 31 CFR 240.4. Treasury regulations at 31 CFR 240.5 provide that Treasury has the right to refund from a presenting bank of the amount of a check as to which the required guarantee has been breached. Thus, when a presenting bank presents and is paid on a Treasury check bearing a forged or unauthorized endorsement, a claim in favor of the United States arises.

The Federal Claims Collection Act of 1966 (31 U.S.C. 951 *et seq.*) imposes on the head of each Federal agency the responsibility to attempt collection of claims arising from the activities of his agency. Because of Treasury's role in issuing and making payment on Treasury checks, Treasury has historically accepted responsibility for

collection of claims arising from unauthorized endorsement of those checks. Moreover, Treasury's role in this collection or "reclamation" activity is expressly referred to in 31 U.S.C. 563.

Historically, Treasury has relied on demand letters and litigation to recover amounts owed it by virtue of presenting banks' breaches of the guarantee required by these regulations. However, Treasury has encountered increasing reluctance and/or refusal on the part of some presenting banks to honor Treasury's claims, notwithstanding that the facts and law support those claims. The generally small dollar value of individual claims makes recourse to litigation as a collection method cost ineffective. Treasury has already amended its regulations at 31 CFR Part 240, to provide for the charging of interest on claims not paid when due. However, although this will provide some compensation for losses attributable to delayed payment of claims, it will not in itself provide a completely effective collection mechanism.

Action

Accordingly, Treasury now proposes to implement a setoff-like mechanism to improve its efforts to collect these claims. Although 31 U.S.C. 561 et seq. and 952 make clear that it is Treasury's responsibility to collect on the claims, neither statute expressly authorizes setoff. Nevertheless, precedent for similar debt recovery mechanisms is found in the regulation for Federal Recurring Payments by Financial Organizations by Means other than by Check (31 CFR Part 210), and in the regulation for Special Depositors of Public Money (31 CFR Part 203). Although not expressly provided for in the Bureau of Public Debt's regulations governing losses resulting from erroneous payments on savings bonds and savings notes, 31 CFR Part 321, subpart E, the common law right of setoff is occasionally exercised to recover such losses. In addition, the regulations issued under the Federal Claims Collection Act of 1966 strongly encourage the use of setoff. 4 CFR 102.3 (46 FR 39113, July 31, 1981).

Case law addressing the guarantee required by 31 CFR 240.4 characterizes it as a provision of federal law governing the rights and duties of the federal government on the commercial paper it issues. See, e.g., *Clearfield Trust v. United States*, 318 U.S. 363, 366 (1943). However, the required guarantee can also be viewed as a term of a contract which every party endorsing or handling a Treasury check agrees to. The proposed amendment to 31 CFR Part 240

discussed in this proposal would add, as an additional term of that contract, an agreement by each presenting bank that where it presented and was paid for a Treasury check bearing a forged or unauthorized endorsement, Treasury could recover the amount of the check from the presenting bank's reserve or other account with a Federal Reserve Bank, or from the reserve or other account with a Federal Reserve Bank used by the presenting bank. Setoff would be employed only after the presenting bank was notified that such action was being considered and offered an opportunity to show there was no debt.

Setoff would entail the withdrawing by a Federal Reserve Bank, or one of its branches, of the amount owed with respect to a check previously presented for payment or collection to, and paid by Treasury, from the reserve or other account used by the presenting bank. Administrative collection of Treasury's claim through setoff will be both efficient and economically feasible. It should be emphasized that setoff would not be employed until the presenting bank had been given notice that setoff was being considered, and accorded the opportunity either to refund the amount reclaimed or to present evidence that a questioned endorsement was genuine or authorized.

In addition, where information submitted by a presenting bank persuaded Treasury that there was a bona fide dispute of a material fact for the resolution of which testimony was necessary, that bank could request and be granted an oral hearing. Normally, a request for a hearing would not be permitted to delay further demands or setoff. The only purpose of these hearings would be to resolve disputed and material factual questions in the resolution of which the testimony of witnesses was necessary. Questions of fact which can be resolved on the basis of documentary evidence, and questions of law, would be addressed only in review of banks' written submissions. If, on the basis of an oral hearing, it was determined that the facts did not support Treasury's right to refund, the amount collected by setoff, including any other applicable charges such as interest, would be returned to the presenting bank.

The proposed setoff program will operate in conjunction with an existing interest billing system. Treasury is avoiding creation of a separate setoff correspondence system in order to operate within budget and personnel ceiling constraints. In practice, this will mean that correspondence now

generated by the interest billing system will have additional meaning not apparent on its face. This additional meaning is described in the proposed regulation. For example, a monthly interest billing statement shows no more on its face with respect to a particular check of "item" than the reclamation date (i.e., the date on which the first demand was prepared), the reclamation number, the check symbol, the check serial number, the reclamation balance due, the interest payments received and the interest due. However, if on a particular monthly interest billing statement an item appears for the third time, the statement would have the additional meaning prescribed by the proposed 31 CFR 240.5(g). For example, it would notify the bank of Treasury's decision, based on all information available to Treasury, that the bank was liable for the amount of the item and any other applicable charges, and would also notify the bank that if payment is not received by the thirtieth day after the billing date shown on the statement, Treasury will recover the entire amount owed with respect to that item by setoff. Because setoff is built onto an existing system banks may wish in order to protect their interests to keep all monthly interest billing statements received from Treasury so that they can keep track of the number of times an item has appeared on a statement. This will be important so that a bank can know where in the setoff process (e.g., second demand, fourth demand) a particular item is. Special expedited recovery procedures will be provided in the proposal for reclamations bearing reclamation dates between May 26, 1981 (the implementation date of the interest billing system) and the effective date of the anticipated final rule.

Treasury is aware of the concern of the banking community on this issue. Setoff was previously discussed in an advance notice of proposed rulemaking ("ANPR") published in the Federal Register on April 25, 1979 (Vol. 44, No. 81, Page 24306). In answer to that notice, many banks voiced concern regarding due process requirements. The proposal on setoff was withdrawn for further consideration. This withdrawal was announced in a notice of proposed rulemaking published in the Federal Register on September 12, 1979 (44 FR 53090).

We have analyzed the responses of the banks to the ANPR and have determined that the objections raised do not warrant refraining from proposing regulations authorizing setoff with opportunity for a post-setoff hearing. See, e.g., *Parratt, et al. v. Taylor*, 49

U.S.L.W. 4509, 4511 (U.S. S. Ct. 1981). We will carefully analyze and consider any comments received on this proposal, and incorporate any necessary changes suggested by such comments.

It has been determined that this amendment will not be a "major rule" as defined in Executive Order 12291, dated February 17, 1981. This determination is based on the fact that the rule's only purpose and effect will be to increase the efficiency and effectiveness of the United States' efforts to collect debts which arise under existing law and for the collection of which the Secretary is responsible under existing law. In addition, the only significant alternative collection device, litigation, has not been sufficiently effective. For the same reasons, this proposed rule will not have a significant economic impact on a substantial number of small entities. Therefore, the initial regulatory flexibility analysis referred to in Pub. L. 96-354, 94 Stat. 1168 (September 19, 1980), is not required and has not been conducted.

PART 240—INDORSEMENT AND PAYMENT OF CHECKS DRAWN ON THE UNITED STATES

Accordingly, it is proposed that 31 CFR Part 240 be amended as follows:

1. By revising the authority citations to read as follows:

Authority: 5 U.S.C. 301; R.S. sec. 3646, 23 Stat. 306, as amended (31 U.S.C. 528); Act of Nov. 21, 1941, 55 Stat. 777, as amended (31 U.S.C. 561 et seq.); sec. 3, Pub. L. 89-508, 80 Stat. 309 (31 U.S.C. 952).

2. By revising § 240.1 to read as follows:

§ 240.1 Scope of regulations.

The regulations in this part prescribe the requirements for indorsement, and the conditions for payment, of checks drawn on the United States Treasury. These regulations also establish procedures for recovery of monies due the United States Treasury because of payments on checks bearing forged or other unauthorized indorsements, or other material defects.

3. By revising § 240.2 to read as follows:

§ 240.2 Definitions.

(a) "Check" or "checks" means to check or checks drawn on the United States Treasury.

(b) "Days" mean calendar days unless otherwise specified.

(c) "Federal Reserve Bank" means a Federal Reserve Bank or branch thereof.

(d) "Financial organization" means any bank, savings bank, savings and loan association or similar institution, or Federal or State chartered credit union.

(e) "Item" means a reference in a monthly interest billing statement to a check for the amount of which Treasury has demanded refund from a presenting bank.

(f) "Monthly interest billing statement" means a statement prepared on a monthly basis by Treasury and submitted to a presenting bank including the following information regarding one or more outstanding demands for refund of the amounts of checks:

- (1) The reclamation date;
- (2) The reclamation number;
- (3) Check identifying information;
- (4) Reclamation balance due; and
- (5) Interest due.

The monthly interest billing statement contains information regarding only those checks tracked in Treasury's interest billing system. There may be outstanding demands with respect to checks not appearing in a statement.

(g) "Person" or "persons" means an individual or individuals, or an organization or organizations, including all forms of financial organizations.

(h) "Presenting bank" means (1) a bank or other financial organization which, either directly or through a correspondent banking relationship, presents checks to, and receives credit therefor from, a Federal Reserve Bank, or (2) a depository which is authorized to charge checks to the General Account of the United States Treasury and present them directly to Treasury for payment.

(i) "Reclamation balance" means the principal amount of a refund for which demand has been made.

(j) "Reclamation date" means the date on which a demand for refund was prepared. Normally, demands are sent to presenting banks within five working days of the reclamation date.

(k) "Setoff" means Treasury's recovery of its claim for the amount of a paid check and any other applicable charges where the check was presented for payment bearing a forged or unauthorized indorsement or containing any other material defect or alteration, from the reserve or other account with a Federal Reserve Bank used by the presenting bank. This recovery is effected by the Federal Reserve Bank on Treasury's behalf and as Treasury's fiscal agent.

(l) "Treasury" means the United States Treasury.

4. By revising § 240.5 to read as follows:

§ 240.5 Recovery of amounts of paid checks; setoff.

(a) If, after a check has been paid by Treasury, it is found to:

- (1) Bear a forged or unauthorized indorsement;

(2) Bear an indorsement by another for a deceased payee (or a deceased co-payee) where the right to the proceeds of the check terminated upon the death of the payee (or the co-payee), or;

(3) Contain any other material defect or alteration which was not discovered upon first examination, then, upon demand by the Treasury, the presenting bank shall refund the amount of the check.

(b) Treasury shall have the right to additional charges, at the rate set from time to time for purposes to Pub. L. 95-147, 92 Stat. 1227 (1977), for late refund of the amount of a Treasury check presented and paid bearing a forged or otherwise unauthorized indorsement, and for later repayment by a payee of an overpayment resulting from the payee's negotiation of both an original check, and a substitute or settlement check issued for the same underlying obligation.

(c) Whenever Treasury determines that a payment on a check was improper for any reason set forth in paragraph (a) of this section, it will demand refund of the amount of the check from the presenting bank. This demand will normally be in the form of a form entitled, "Request for Refund (Reclamation)." The demand will normally state the basis for refund (e.g., forgery, deceased payee) and shall constitute notice to the presenting bank of the following:

(1) That payment of the amount demanded, including the reclamation balance and any other applicable charges is due at the place stated on the demand no later than 60 days from the date of the demand;

(2) That interest on the reclamation balance will commence to accrue on the sixty-first day after the reclamation date;

(3) That failure to make the refund demanded may result in enforced collection of the reclamation balance and any other applicable charges by setoff; and

(4) That the presenting bank may submit any written information (e.g., affidavits, account agreements, signature cards) or arguments if it believes that refund is not required, to:

Division of Check Claims, Attn: Protest, Washington, D.C. 20227.

(d) If, by the time of preparation of the monthly interest billing statement on or next following the reclamation date, Treasury has neither received payment of the amount demanded at the place specified on the first demand nor received at the address specified in paragraph (c)(4) of this section a written

submission which shows to Treasury's satisfaction that refund is not required, Treasury will normally make a second demand for refund by the presenting bank. The second demand for refund will normally be in the form of inclusion of the item in the monthly interest billing statement furnished to the presenting bank. Such inclusion of the item shall constitute notice to the presenting bank of the following:

(1) That Treasury has decided based on all information available to it that the presenting bank is liable for the amount of the item and any other applicable charges;

(2) That the presenting bank may, if it believes refund is not required, submit further written information in support of its view to Treasury at the address specified in paragraph (c)(4) of this section;

(3) That Treasury intends to employ setoff to recover the reclamation balance and any other applicable charges unless, within 60 days from the reclamation date, Treasury receives payment of the amount demanded at the place specified in the monthly interest billing statement or receives at the address specified in paragraph (c)(4) of this section a written submission which shows to Treasury's satisfaction that refund is not required; and

(4) That the presenting bank may request an oral evidentiary hearing if it believes that written submissions will not adequately present its defense.

Neither the demands nor the setoff referred to in this section will normally be delayed pending a hearing requested by a presenting bank.

(e) If, by the time of preparation of the monthly interest billing statement next following the first monthly interest billing statement in which an item was included, Treasury has neither received payment of the amount demanded at the address specified in the second demand nor received at the address specified in paragraph (d)(4) of this section a written submission which shows to Treasury's satisfaction that refund is not required, Treasury will normally make a third demand for refund by the presenting bank. The third demand for refund will normally be in the form of the second inclusion of the item in a monthly interest billing statement. Such second inclusion of the item shall constitute notice to the presenting bank of the following:

(1) That Treasury has decided based on all information available to it that the presenting bank is liable for the amount of the item and any other applicable charges;

(2) That the presenting bank may, if it believes refund is not required, submit further written information in support of its view to Treasury at the address specified in paragraph (c) (4) of this section;

(3) That Treasury intends to employ setoff to recover the reclamation balance and any other applicable charges unless, within 60 days from the reclamation date, Treasury receives payment of the amount demanded at the address specified in the most recent monthly interest billing statement or receives at the address specified in paragraph (c) (4) of this section a written submission which shows to Treasury's satisfaction that refund is not required; and

(4) That the presenting bank may request an oral evidentiary hearing if it believes that written submissions will not adequately present its defense.

Neither the demands nor the setoff referred to in this section will normally be delayed pending a hearing requested by a presenting bank.

(f) If, in response to any demand referred to in this section, Treasury receives a written submission which is determined by Treasury to raise a genuine issue as to the liability of the presenting bank, further demands may be delayed pending consideration of the written submission. For purposes of calculating the amount of interest due on reclamation balance for which the presenting bank is ultimately determined to be liable, delay in making further demands shall not stop the passage of time. If Treasury determines that the presenting bank's written submission establishes that the bank is not liable for the amount of the item, the presenting bank will receive written notice of that determination. That determination and notice thereof shall be without prejudice to a later determination that the presenting bank is liable, where the later determination is based on information not available to Treasury at the time of the earlier determination. In the event of such a later determination of presenting bank liability, interest on the reclamation balance shall commence to accrue on the sixty-first day after the original reclamation date. If Treasury determines that the presenting bank's written submission does not negate its liability, the presenting bank shall be notified of that determination by a renewed demand in the form of inclusion of the item in a monthly interest billing statement prepared after the determination.

(g) If, by the time of preparation of the monthly interest billing statement next

following the second monthly interest billing statement in which an item was included (*i.e.*, third demand), Treasury has neither received payment of the amount demanded at the address specified in the third demand nor received at the address specified in paragraph (c)(4) of this section a written submission which shows to Treasury's satisfaction that refund is not required, Treasury will normally make a fourth demand for refund by the presenting bank. The fourth demand for a refund will normally be in the form of the third inclusion of the item in a monthly interest billing statement. Such third inclusion of the item shall constitute notice to the presenting bank of the following:

(1) That Treasury has decided based on all information available to it that the presenting bank is liable for the amount of the item and any other applicable charges;

(2) That the presenting bank may, if it believes refund is not required, submit further written information in support of its view to Treasury at the address specified in paragraph (c)(4) of this section;

(3) That Treasury shall employ setoff to recover the reclamation balance and any other applicable charges unless, within 30 days from the billing date shown on the monthly interest billing statement on which the third inclusion of the item appears, Treasury receives payment of the amount demanded at the address specified in the most recent monthly interest billing statement; and

(4) That the presenting bank may, if it believes refund is not required, submit to the address specified in paragraph (c)(4) of this section further written information in support of its view or request an oral evidentiary hearing.

The setoff referred to in this section will normally not be delayed to consider written information submitted, or information presented at a hearing requested, pursuant to paragraph (g)(4) of this section.

(h) If within 30 days from the billing date shown on the fourth demand referred to in paragraph (g) of this section, Treasury has not received payment of the reclamation balance and any other applicable charges at the address specified in that demand, then Treasury as principal will instruct the appropriate Federal Reserve Bank as Treasury's fiscal agent to recover the reclamation balance and any other applicable charges from the reserve or other account with the Federal Reserve Bank which is used by the presenting bank. When furnished to the presenting

bank, a copy of the instruction referred to in the immediately preceding sentence shall constitute notice of the setoff action.

(i) If the presenting bank's written submissions are determined by Treasury to raise a disputed issue of material fact for the resolution of which testimony is necessary, and if that bank requests an oral evidentiary hearing, Treasury will notify the presenting bank of the time and place in Washington, D.C. of the hearing. The only issues of fact which are material for purposes of the immediately preceding sentence are whether indorsements questioned by Treasury are genuine or otherwise authorized, and whether a check contains any other material defect or alteration not discovered upon first examination. A demand referred to in paragraph (c), (d), or (e) of this section shall constitute a specific denial that an indorsement questioned therein is genuine or authorized. If, at a hearing, Treasury introduces some evidence that a questioned indorsement is not genuine, the presenting bank shall bear the burden of establishing by a preponderance of the evidence that the questioned indorsement is genuine or authorized. In order to raise such an issue of material fact, the presenting bank's request for a hearing must make a specific offer of such proof as it will introduce at the hearing and submit sworn affidavits from each witness it wishes to call. If Treasury determines that nothing submitted by a presenting bank requesting a hearing raises a disputed issue of material fact for the resolution of which testimony is necessary, the presenting bank shall be notified of the determination that no hearing will be held. After notifying the presenting bank that no hearing will be held, Treasury's recovery of the amount owed by setoff shall constitute the final agency action.

(j) If a hearing is held, the presiding official shall notify the presenting bank in writing of this or her decision. If the decision is that each contested indorsement is genuine or authorized and that there was no material defect or other alteration, then the amount paid by, or recovered from the reserve or other account with a Federal Reserve Bank used by, the presenting bank shall be refunded. If the decision is that a questioned indorsement is forged or unauthorized or that there was any other material defect or alteration, the presenting bank shall be notified of the decision that it is liable. The decision after a hearing that the presenting bank is liable is final.

(k)(1) The rules and procedures provided for in paragraph (k) of this section apply only to a check with respect to which a demand for refund was made so that the item bears a reclamation date falling in the period from May 26, 1981 to and including — (the last date before the effective date of this section).

(2) In the case of any check to which the rules and procedures provided in paragraph (k) of this section apply, the presenting bank shall have 60 days from — (the effective date of this section) to:

(i) Submit any written information (e.g., affidavits, account agreements, signature cards) or arguments if it believes that refund is not required, to:

Division of Check Claims, Attn: Protest, Washington, D.C. 20227; or

(ii) to pay the amount demanded and all other applicable charges.

(3) If, by the close of business on the sixtieth day after — (the effective date of this section), Treasury has neither received payment of the amount demanded at the place specified on the Request for Refund (Reclamation) relating to the check in question, nor received at the address specified in paragraph (k)(2)(i) of this section a written submission which shows to Treasury's satisfaction that refund is not required, then Treasury as principal will instruct the appropriate Federal Reserve Bank as Treasury's fiscal agent to recover the reclamation balance and any other applicable charges from the reserve or other account with the Federal Reserve Bank which is used by the presenting bank. When furnished to the presenting bank, a copy of the instruction referred to in the immediately preceding sentence shall constitute notice of the setoff action.

(4) A presenting bank may, in addition to making the written submission referred to in paragraph (k)(2)(i) of this section, request an oral evidentiary hearing. If the presenting bank's written submissions are determined by Treasury to raise a disputed issue of material fact for the resolution of which testimony is necessary, and if that bank requests an oral evidentiary hearing, Treasury will notify the presenting bank of the time and place in Washington, D.C. of the hearing. The only issues of fact which are material for purposes of the immediately preceding sentence are whether indorsements questioned by Treasury on the Request for Refund (Reclamation) relating to a check are genuine or authorized, and whether a check contains any other material defect or alteration not discovered upon first examination. In order to raise such an

issue of material fact, the presenting bank's request for a hearing must make a specific offer of such proof as it will introduce at the hearing and submit sworn affidavits from each witness it wishes to call. If Treasury determines that nothing submitted by a presenting bank raises a disputed issue of material fact for the resolution of which testimony is necessary, the presenting bank shall be notified of the determination that no hearing will be held.

(5) The demand referred to in paragraph (k)(1) of this section shall constitute a specific denial that an indorsement questioned therein is genuine or authorized. If, at a hearing, Treasury introduces some evidence that a questioned indorsement is not genuine or authorized, the presenting bank shall bear the burden of establishing by a preponderance of the evidence that the questioned indorsement is genuine or authorized.

(6) If a hearing is held, the presiding official shall notify the presenting bank in writing of his or her decision. If the decision is that each questioned indorsement is genuine or authorized and that there was no other material defect or alteration, then the amount paid by, or recovered from the reserve account used by the presenting bank shall be refunded. If the decision is that a questioned indorsement is forged or unauthorized or that there was any other material defect or alteration, the presenting bank shall be notified of the decision that it is liable. The decision after a hearing that the presenting bank is liable is final.

(7) The setoff referred to in paragraph (k)(3) of this section will not normally be delayed pending a hearing requested by a presenting bank.

Dated: October 15, 1981.

Irvin E. Faunce,
Acting Commissioner, Bureau of Government
Financial Operations.

[FR Doc. 81-31979 Filed 11-3-81; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL 1939-4]

Approval and Promulgation of Implementation Plans; Michigan

AGENCY: Environmental Protection
Agency (EPA).

ACTION: Notice of proposed rulemaking.

SUMMARY: On May 24, June 19, and July 17, 1980 and March 4, 1981, the State of Michigan submitted source-specific Abatement Orders for: (1) The Buick Motor Division Complex of General Motors located in Genesee County, Michigan, (2) the Grey Iron Casting Plant and Nodular Iron Casting Plant of the Chevrolet Division of General Motors, located in Saginaw County, Michigan, and (3) the New Haven Foundry located in Macomb County, Michigan. These Abatement Orders were submitted as revisions to the total suspended particulate (TSP) portion of the Michigan State Implementation Plan (SIP). The purpose of today's action is to announce receipt of these revisions, to propose approval of these Abatement Orders and to solicit public comment on the Abatement Orders and on EPA's proposed approval.

DATE: All written comments (in triplicate, if possible) must be received by December 4, 1981.

ADDRESSES: Copies of these SIP revisions are available for review at the following addresses:

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

Michigan Department of Natural
Resources, Air Quality Division, State
Secondary Government Complex,
General Office Building, 7150 Harris
Drive, Lansing, Michigan 48917

Written comments should be sent to:
Gary Gulezian, Chief, Regulatory
Analysis Section, Air Programs Branch,
Region V, U.S. Environmental Protection
Agency, 230 South Dearborn Street,
Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT:
Richard Clarizio or Toni Lesser,
Regulatory Analysis Section, Air
Programs Branch, USEPA, Region V, 230
South Dearborn Street, Chicago, Illinois.
Telephone: (312) 886-6029 or 886-6037.

SUPPLEMENTARY INFORMATION: On March 3, 1978, (43 FR 8962) and October 5, 1978, (43 FR 45993), pursuant to the requirements of section 107 of the Clean Air Act (Act), EPA designated certain areas in each State as not meeting either the primary or secondary National Ambient Air Quality Standard (standard) for total suspended particulates (TSP). In Michigan there were four areas designated as primary TSP nonattainment areas. A small portion of the City of Flint, Genesee County, Michigan and the City of Saginaw, Saginaw County, Michigan were two of the four primary TSP nonattainment areas. Twenty areas within the State were designated as secondary TSP nonattainment areas.

Portions of Macomb and Saginaw Counties, Michigan were two of the twenty secondary TSP nonattainment areas. A list of all the primary and secondary nonattainment areas in the State is contained in Part 81, title 40 of the Code of Federal Regulations (40 CFR Part 81).

Part D of the Act requires each State to revise its SIP to meet specific requirements for areas designated as nonattainment. These SIP revisions must demonstrate attainment of the primary TSP standard by December 31, 1982, and the secondary TSP standard as expeditiously as practicable. The criteria for an approvable SIP are described in a Federal Register notice published April 4, 1979, (44 FR 20872). Supplements to the April 4, 1979, notice were published on July 2, 1979, (44 FR 38583), August 28, 1979, (44 FR 50871), September 17, 1979, (44 FR 58761) and November 23, 1979, (44 FR 67182).

The strategy developed by the State of Michigan to ensure attainment of both the primary and secondary TSP standards requires reasonably available control technology (RACT) on the traditional point and fugitive sources of TSP and, where necessary, additional control on those traditional sources which have been identified as causing or contributing to the particulate problems in the nonattainment area. The additional control requirements are to be contained in enforceable Abatement Orders. The Abatement Orders are to require emission reductions beyond the level otherwise required by Michigan's particulate regulations.

In those TSP nonattainment areas where additional controls are necessary, the State of Michigan has agreed to conduct particulate studies. The purpose of these studies is to identify those sources which are causing or contributing to the high TSP levels in each nonattainment area. Since previous attempts to use Air Quality Dispersion Modeling (AQDM) failed reasonably to correlate the modeled air quality data with the actual monitored air quality for a particular area, the State proposed to substitute further AQDM analyses with the particulate studies. The particulate studies are to examine the base year emissions, to update the emissions inventory for an area and microscopically analyze the character of the particulate matter collected by the monitors in the area. Using the base year emissions, the State can determine the percent reduction necessary to attain either the primary or secondary TSP standard. Comparing this figure with the percent reduction anticipated as a result of the implementation of Michigan's particulate regulations the

State could be able to then determine what, if any, additional emission reductions are necessary. If additional reductions are necessary, the State would then examine the emission inventory and microscopy report to determine which sources are causing or contributing to the problem. Michigan could require those sources to install additional controls. The State would implement the additional requirements by issuing legally enforceable Abatement Orders.

In the May 6, 1980, Federal Register (45 FR 29790) EPA approved this strategy for attaining the primary and secondary TSP standards. EPA stated at that time, however, that the source-specific Abatement Orders were to be submitted to EPA for review and approval as revisions to the Michigan SIP.

On May 24, July 17, 1980 and March 4, 1981, the State of Michigan submitted source-specific Abatement Orders for three sources located in the primary nonattainment areas of Genesee and Saginaw Counties and two sources located in the secondary nonattainment areas of Macomb and Saginaw Counties, Michigan. The May 24, 1980, submission was "Stipulation for entry of Consent Order and Final Order APC No. 10-1979 (Order 10-1979)" entered into by the Michigan Department of Natural Resources (MDNR) and the Buick Motors Division of General Motors Corporation (TM). Order 10-1979 was for the Buick Motor Division Complex (BMDC) located in the City of Flint, Michigan. Supplementary information was submitted by MDNR on December 2, 1980.

The July 17, 1980, submission was "Stipulation for entry of Consent Order and Final Order APC No. 01-1980 (Order 01-1980)" entered into by MDNR and the Chevrolet Motor Division of GM. Order 01-1980 was for the Grey Iron Casting Plant and Nodular Iron Casting Plant located in the Saginaw County primary nonattainment area. Supplementary information for Order 01-1980 was submitted by MDNR on September 5, 1980 and February 6, 1981.

The March 4, 1981, submission was "Stipulation and Final Order, APC No. 12-1980 (Order 12-1980)" entered into by MDNR and the New Haven Foundry. The New Haven Foundry is located in Macomb County, Michigan.

Presented below is a synopsis of EPA's review of each of the Orders and the documentation submitted to show attainment of the appropriate TSP standard.

Genesee County (Order 10-1979)

The Buick Motors Division Complex (BMDC) is operated by the Buick Motors Division of GM. BMDC is located in a small portion of the City of Flint which is designated as a primary TSP nonattainment area.

MDNR examined 1977 base year emissions. The annual geometric mean value of TSP emissions was 99 micrograms per cubic meter of air (99 $\mu\text{g}/\text{m}^3$). MDNR determined that implementation of Michigan's particulate regulations would not be sufficient to ensure attainment of the primary standard of 75 $\mu\text{g}/\text{m}^3$ by December 31, 1982. Additional reductions would be necessary. The microscopic filter analyses conducted on TSP monitors located in and around the primary nonattainment area indicated that emissions from the molten iron and sand handling operations and traffic related activities at the BMDC plant were significant contributors to the high TSP concentrations at the monitor sites.

To reduce these high TSP levels, MDNR and the Buick Motors Division of GM signed Order 10-1979. Order 10-1979 details specific control requirements which are designed to reduce TSP emissions from the molten iron and sand handling operations and the traffic activities at BMDC. In particular, Order 10-1979 requires BMDC to discontinue certain metal casting operations and casting support operations for BMDC Mold Lines No. 1 and No. 2 by December 31, 1982. In addition to these requirements, Order 10-1979 requires BMDC to clean and pave certain surfaces within the area of BMDC and, after December 31, 1982, to operate only two of the three existing cupolas at any one time.

As a result of the implementation of Order 10-1979, MDNR estimated that the following TSP emission reductions would be achieved by December 31, 1982:

Source category	Estimated percent TSP emission reduction
(1) Molten iron handling operations	33
(2) Sand handling operations	38
(3) Traffic related activities	75

Applying these emission reduction estimates to the overall plantwide emissions, MDNR determined that a 32% reduction in TSP emissions would be realized at the plant. MDNR then applied this 32% emission reduction

estimate to each date in 1977 on which data was collected from the monitors in the area. Using this approach MDNR predicted that the TSP annual geometric mean value would be reduced from 99 $\mu\text{g}/\text{m}^3$ to 67 $\mu\text{g}/\text{m}^3$ by December 31, 1982. Using this technique MDNR predicted that there would be no violations of the primary 24-hour TSP standard. MDNR did not demonstrate that the secondary TSP standard would be attained. In accordance with its commitment for secondary TSP attainment (45 FR 29790) the State will continue to study the TSP emissions in the area and will implement those additional measures which are necessary to attain the secondary standards. Furthermore, as stated in the May 6, 1980 Federal Register (45 FR 29790), the State will submit to EPA any source-specific Abatement Order which may be necessary as a result of these studies, for review and approval as part of the Michigan SIP.

Saginaw County (Order 01-1980)

The Grey Iron and Nodular Iron Casting Plants are operated by the Chevrolet Motor Division of GM. These plants are located in a small area of Saginaw County (approximately four square miles) which is designated as not meeting the primary TSP standard. GM operates nine cupolas at the Grey Iron Plant and five cupolas at the Nodular Iron Plant (a sixth cupola is being constructed at the Nodular Iron Plant).

MDNR examined TSP emissions in the area during the base year 1977. The annual geometric mean value of TSP emissions was 84 $\mu\text{g}/\text{m}^3$ during 1977. MDNR determined that implementation of Michigan's particulate regulations would not be sufficient to ensure attainment of the primary TSP standard by December 31, 1982. Additional reductions in TSP emissions would be necessary. The filter analyses conducted for the area indicated that TSP emissions from both iron plants were contributing to the primary nonattainment problem in the area. Order 01-1980 requires additional control from the cupolas located at both of these plants and the iron yard located at the Grey Iron Foundry. In particular, Order 01-1980 requires the following emission reductions by December 31, 1982:

Source	Location	Total emission reduction (tons per year (tpy))
(1) Cupola #2	Nodular iron plant	29.0
(2) Collectors CL-4W, 5W and 11W	Nodular iron plant	22.7
(3) Cupola #3	Nodular iron plant	29.0

Source	Location	Total emission reduction (tons per year (tpy))
(4) Four arc furnaces	Grey iron plant	17.9
(5) Cupola A-1	Grey iron plant	27.9
(6) Cupola D-4	Grey iron plant	27.9
(7) Cupola E-6	Grey iron plant	28.1
(8) Burndown caps	Both plants	17.1

Total anticipated emission reductions are 199.6 tpy. Of this total amount, the 98.6 tpy of emission reductions contributed by sources #1-4 above were used to offset the emissions increase from the new cupola being constructed at the Nodular Iron Plant. (According to the permit issued for this new source, TSP emissions of only 64.0 tpy will be realized.) The 98.6 tpy used as the offset were not used in the air quality demonstration of attainment. Any action taken today approving or disapproving Order 01-1980 and the emission reductions used for the offset should not be construed as an evaluation of the adequacy of Order 01-1980 as it relates to the offset requirements of Michigan's or EPA's regulations. Only the remaining 101 tpy emission reductions were used to determine whether sufficient emission reductions, beyond what was required by the Michigan particulate regulations, had been obtained to ensure attainment of the primary TSP standard by December 31, 1982. MDNR estimated that as a result of the installation of the additional controls required by Order 01-1980 there would be by December 31, 1982 a 19 percent reduction in ambient air concentrations of TSP as measured at monitors located downwind of both plants, and a 4 percent reduction in concentration of TSP as measured at other monitor locations. This translated to a reduction in the annual geometric mean value from 84 $\mu\text{g}/\text{m}^3$ to a predicted value of 74 $\mu\text{g}/\text{m}^3$. However, attainment of the secondary TSP standard in this portion of Saginaw County was not shown. In accordance with its commitment for secondary TSP attainment (45 FR 29790), the State will continue to study the TSP emissions in the area and will implement those additional measures which are necessary. Furthermore, as stated in the May 6, 1980, Federal Register (45 FR 29790), the State will submit the source-specific Abatement Orders to EPA for review and approval as part of the Michigan SIP.

Macomb County (Order 12-1980)

The New Haven Foundry is located in the Macomb County secondary nonattainment area. The State committed itself to attaining the

secondary TSP standard in this area by June 30, 1985.

MDNR examined TSP emissions in this area from 1976 through 1978. Based on 1978 monitoring data MDNR determined that a 62 percent reduction in TSP emissions was necessary for the secondary nonattainment area to achieve the secondary TSP standard by June 30, 1985. MDNR determined that implementation of its particulate regulations would not be sufficient to ensure attainment. Additional reductions would be necessary. Examining the emissions inventory, MDNR determined that the New Haven Foundry was the only significant source of TSP emissions in the secondary nonattainment area. The TSP monitoring data was assumed, therefore, to be directly proportional to TSP emissions from the foundry. (Air quality dispersion modelling was not used in this case, because it was judged unnecessary and had failed to correlate adequately with the monitoring data.) To achieve the 62 percent emission reduction goal, MDNR entered into and signed Order 12-1980 with the New Haven Foundry. Order 12-1980 requires New Haven Foundry to reduce TSP emissions from both point and fugitive sources located at its Macomb County plant. As a result of the implementation of Order 12-1980, the following emission reductions will be realized by June 30, 1985:

Source	Total emission reductions (tpy)	Percent reduction
2 cupolas	274.6	77
Core making operations	5.6	100
Casting grinding and cleaning operations	27.6	79
Magnetic separation area and spore dump	21.6	76
Paving and cleaning of roadways and roofs and covering of trucks	41.3	75

Applying these emission reductions to the overall plantwide particulate emission levels yields a 68 percent reduction in TSP emissions. MDNR reasoned that since a 62 percent reduction was necessary and a 68 percent reduction was predicted from the only significant source in the area, the controls required by Order 12-1980 would be sufficient to ensure attainment of the secondary TSP standard in Macomb County, Michigan.

Conclusion—EPA Evaluation

EPA has reviewed Orders 10-1979 (Genesee County primary nonattainment area); 01-1980 (Saginaw County primary nonattainment area); 12-1980 (Macomb County secondary nonattainment area) and the air quality

data submitted with each of these Orders. EPA has determined that these Orders contain enforceable emission limitations and control measures. Furthermore, the State has demonstrated and EPA concurs that implementation of the measures stipulated in each of the Orders will significantly reduce TSP emissions in the affected nonattainment areas.

EPA concurs with the State's demonstration that the implementation of control measures in Order 12-1980, in conjunction with its particulate regulations, will be sufficient to attain the secondary TSP standard by June 30, 1985 in the Macomb County nonattainment area. EPA proposes to approve Order 12-1980 as a SIP revision on the basis that any compliance program approved by the State for the cupolas requires final compliance no later than June 30, 1985.

EPA proposes to approve Orders 10-1979 and 01-1980 as part of the Michigan SIP on the basis that implementation of the control measures contained in these Orders, in conjunction with Michigan's particulate regulations, will be sufficient to ensure attainment of the primary TSP standard in Genesee and Saginaw Counties by December 31, 1982. Furthermore, for these areas, EPA believes that the State's commitment (45 FR 29790) to study the TSP emissions in each area and to implement additional control measures, as necessary, is sufficient to ensure attainment of the secondary TSP standard.

Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator certified on January 27, 1981, (46 FR 8709) that approvals of SIPs under Section 110 or 172 of the Act would not have a significant economic impact on a substantial number of small entities. Today's action proposes to approve a State action under Section 110 and 172 of the Act. It imposes no new requirements beyond those which the State has already imposed.

Under Executive Order 12291, EPA must judge whether a regulation is a "major" and, therefore, subject to the requirements of a Regulatory Impact Analysis. Today's action does not constitute a major regulation since it approves provisions which the State adopted and submitted to EPA. EPA is not imposing any requirements which are different from those already required by the State.

This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

This proposed rulemaking is issued pursuant to the authority of Sections 110 and 172 of the Clean Air Act.

Dated: August 28, 1981.

Valdas V. Adamkus,
Acting Regional Administrator.

[FR Doc. 81-31977 Filed 11-3-81; 8:45 am]

BILLING CODE 6560-38-M

40 CFR Part 123

[SW-5-FRL-1975-5]

Illinois Application for Interim Authorization, Phase I Hazardous Waste Management Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public hearing and public comment period.

SUMMARY: EPA regulations to protect human health and the environment from the improper management of hazardous waste were published in the *Federal Register* on May 19, 1980, (45 FR 33063). These regulations include provisions for authorization of State programs to operate in lieu of the Federal program. Today EPA is announcing the availability for public review of the Illinois application for Phase I Interim Authorization, inviting public comment, and giving notice of public hearing to be held on the application.

DATE: Comments on the Illinois Interim Authorization application must be received by December 18, 1981.

PUBLIC HEARING: EPA will conduct a public hearing on the Illinois Interim Authorization application at 2:00 p.m. on December 8, 1981. EPA reserves the right to cancel the public hearing if significant public interest in the hearing is not expressed. The State of Illinois will participate in the public hearing.

ADDRESSES: The public hearing will be held at 2:00 p.m. on December 8, 1981, at Chicago Circle Center, Room 509-10, 750 South Halsted, Chicago, Illinois.

Copies of the Illinois Interim Authorization application are available at the following addresses for inspection and copying by the public during normal business hours:

- (1) Illinois Environmental Protection Agency, Library, 2200 Churchill Road, Springfield, Illinois 62706, Telephone (217) 782-6760
- (2) U.S. Environmental Protection Agency, Region V, Air and Hazardous Materials Division, Waste Management Branch, 111 West Jackson, Chicago, Illinois 60604.

(3) U.S. Environmental Protection Agency, Library, Room 2404, 401 M Street, S.W., Washington, D.C. 20460.

Written comments and notification of intent to provide oral comments at the hearing and requests for transcripts of the hearing should be sent to: Judy Kertcher, Chief, Regulatory Analysis and Information Section, Waste Management Branch (5AHWM), U.S. Environmental Protection Agency, Region V, 111 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT:

Lillian Bagus, Regulatory Analysis & Information Section, Waste Management Branch (5AHWM), U.S. Environmental Protection Agency, 111 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-6142.

SUPPLEMENTARY INFORMATION: On May 19, 1980, (45 FR 33063), pursuant to the requirements of sections 3001 through 3006 of The Resource Conservation and Recovery Act of 1976, as amended, (Act), EPA promulgated Phase I of its regulations to protect human health and the environment from the improper management of hazardous waste. Section 3006 of the Act provides for the authorization of a State to administer and enforce a hazardous waste management program in lieu of the Federal program. EPA Phase I regulations established, among other things: the initial identification and listing of hazardous wastes; the standards applicable to generators and transporters of hazardous waste, including a manifest system; and the "interim status" standards applicable to existing hazardous waste management facilities before they receive permits. The regulations also provide for two different types of EPA approval of State programs: (1) Interim Authorization which will become effective in phases and which may extend for only 24 months after the final component of Phase II of the Federal program has become effective and (2) Final Authorization. Although for Final Authorization the State must have a program which is "equivalent to" and "consistent with" the full Federal program, during Interim Authorization States need programs that are only "substantially equivalent" to the Federal program.

Any State may submit evidence of a hazardous waste program existing pursuant to State law and may request Interim Authorization to administer and enforce such a program.

EPA shall grant Interim Authorization if the evidence submitted by a State demonstrates that the State program is

substantially equivalent to the Federal program.

On October 20, 1981, the State of Illinois submitted its complete application for Phase I Interim Authorization of its hazardous waste management program. This notice solicits public comments on the State of Illinois' application and its hazardous waste management program. The elements of the Federal program are listed in the May 19, 1980, Federal Register. A full description of the requirements and procedures for Interim Authorization of a State hazardous waste program are listed in Part 123 Subpart F (45 FR 33479), and as amended January 26, 1981, (46 FR 8298). To receive Interim Authorization, a State's hazardous waste management program must be substantially equivalent to the Federal program and must meet the requirements in § 123.128. Copies of the State submittal are available for public inspection and comment as noted above. A public hearing is to be held on the submittal, unless significant public interest is not expressed, also as noted above.

Conduct of Hearing

The hearing is intended to provide an opportunity for interested persons to present their views and submit information for consideration by EPA in the decision whether to grant Illinois Interim Authorization for Phase I of the RCRA program.

A panel of EPA employees involved in relevant aspects of the decision will be present to receive the testimony. The hearing will be informally structured. Representatives from the State of Illinois will testify first and present a short overview of the State program. Other commenters will then be called in the order in which their requests were received by EPA.

As time allows, persons who did not sign up in advance but who wish to comment on the State's application for Phase I Interim Authorization will also be given an opportunity to testify. As a general rule, in order to insure maximum participation and allotment of adequate time for all speakers, participants should limit the length of their statements to 10 minutes. The public hearing will be followed, as time permits, by a question and answer session during which participants may pose questions to members of the panel.

Preparation of Transcripts

A transcript of the comments received at the hearing will be prepared. To insure accurate transcription, participants should provide written copies of their statements to the hearing

chairperson. Transcripts will be available at cost upon request from the address listed above approximately three days after the hearing.

Under Executive Order 12291 (Order), EPA must judge whether an action is a "major rule" and, therefore, subject to the requirements of a regulatory impact analysis. Today's action is not a major rule, since it merely announces receipt and availability of the documents submitted by the State of Illinois and the public comment period. Rulemaking action on these documents will be detailed in a separate Federal Register notice.

Dated: October 23, 1981.

Valdas V. Adamkus,
Regional Administrator.

[FR Doc. 81-32001 Filed 11-3-81; 8:45 am]

BILLING CODE 6560-30-M

40 CFR Part 180

[PP 1E2499/P200; PH-FRL-1977-5]

Atrazine; Proposed Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice proposes that a tolerance be established for the combined residues of the herbicide atrazine (2-chloro-4-ethylamino-6-isopropylamino-s-triazine) and its metabolites 2-amino-4-chloro-6-ethylamino-s-triazine, 2-amino-4-chloro-6-isopropylamino-s-triazine and 2-chloro-4,6-diamino-s-triazine. This proposal was submitted by the Interregional Research Project No. 4 (IR-4). This amendment will establish the maximum permissible level for the combined residues of atrazine and its metabolites at 15 parts per million (ppm) in or on orchardgrass and orchardgrass hay.

DATE: Written comments must be received on or before December 4, 1981.

ADDRESS: Written comments to: Donald Stubbs, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Donald Stubbs (703-557-7123).

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 submitted pesticide petition number

1E2499 to the EPA on behalf of the IR-4 Technical Committee and the Agricultural Experiment Station of Oregon.

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 the combined residues of the herbicide atrazine and its dealkylated chlorometabolites in or on orchardgrass straw and chaff at 0.25 ppm. The petition was later revised to propose a tolerance of 15 ppm in or on orchardgrass and orchardgrass hay.

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 toxicological data considered in support of the proposed tolerance for atrazine were a 2-year rat chronic feeding/oncogenic study with a no-observed-effect-level (NOEL) of 100 ppm; a 2-year dog chronic feeding study with a NOEL of 150 ppm; a three-generation rat reproduction study with a NOEL of 100 ppm (highest level fed). Data lacking for this pesticide include teratology studies in two species (preferably rat and rabbit) and an oncogenicity study in mice (using technical material.)

The acceptable daily intake (ADI), based on the 2-year dog feeding study (NOEL of 150 ppm) and using a 100-fold safety factor, is calculated to be 0.0375 mg/kg of body weight (bw)/day. The maximum permitted intake (MPI) for a 60kg human is calculated to be 2.25 mg/day. The theoretical maximum residue contribution (TMRC) for existing tolerances for a 1.5 kg daily diet is calculated to be 0.0769 mg/day. Published tolerances utilize 3.42 percent of the ADI. The proposed tolerance will not contribute to the TMRC.

The nature of the residues is adequately understood and adequate analytical methods (gas-liquid chromatography with a microcoulometric detector) are available for enforcement purposes. There are presently no actions pending against the continued registration of these chemicals.

Based on the above information considered by the agency, the tolerance 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 4, 1981, 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 1E2499/P200]". All written comments filed in response to this notice of proposed rulemaking will be available for public inspection in the office of Donald Stubbs, from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

As required by Executive Order 12291, EPA has determined that this proposed rule is not a "Major" rule and therefore does not require a Regulatory Impact Analysis. In addition, the Office of Management and Budget (OMB) has exempted this proposal from the OMB review requirements of Executive Order 12291, pursuant to section 8(b) of that Order.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations proposing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1981 (46 FR 24950).

(Sec. 408(e), 68 Stat. 512; (21 U.S.C. 346a(e)))

Dated: October 23, 1981.

Robert V. Brown,

Acting Director, Registration Division, Office of Pesticide Programs.

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Therefore, it is proposed that 40 CFR 180.220(b) be amended by alphabetically adding the raw agricultural commodities "orchardgrass" and "orchardgrass hay" to read as follows:

§ 180.220 Atrazine; tolerances for residues.

(b) . . .

Commodity	Parts per million
Orchardgrass	15
Orchardgrass hay	15

[FR Doc. 81-31954 Filed 11-3-81; 8:45 am]

BILLING CODE 6550-32-M

40 CFR Part 256

[SW-FRL-1974-1]

State Solid Waste Management Plans; Availability for Public Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability of State plans for public comment.

SUMMARY: Thirty three (33) State solid waste management plans and have submitted them to EPA for approval as provided by Subtitle D of the Resource Conservation and Recovery Act of 1976, as amended. The States are Alabama; American Samoa; Arizona; Arkansas; California; Colorado; Connecticut; Florida; Georgia; Idaho; Indiana; Kansas; Kentucky; Louisiana; Maine; Massachusetts; Mississippi; Missouri; Montana; North Carolina; North Dakota; Ohio; Oklahoma; Oregon; Pennsylvania; Puerto Rico; Rhode Island; South Carolina; South Dakota; Tennessee; Texas; Vermont; and Washington. Under Section 4007(a) of the Act, EPA is to approve or disapprove State plans within six months of receipt. EPA may also issue a partial plan approval. With an approved plan, States are eligible under the Act for financial and technical assistance and can issue protective compliance schedules to entities engaged in open dumping. Partial plan approval allows EPA to authorize a State to issue protective compliance schedules. Today EPA is announcing the availability of the 33 State plans for public review and is inviting public comment on the plans.

DATE: The comment period will close on December 4, 1981.

ADDRESS: Copies of these State solid waste management plans are available at EPA Headquarters Library, Room 2404, 401 M Street, S.W., Washington, D.C. for inspection and copying by the public. Submit comments to the relevant regional office listed in Supplementary Information.

FOR FURTHER INFORMATION CONTACT: For general information contact James F. Michael, Office of Solid Waste, (WH-583), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, (202) 382-2210. For further information on availability of specific State plans see Supplementary Information.

SUPPLEMENTARY INFORMATION: Under Subtitle D of the Resource Conservation and Recovery Act of 1976, as amended

("RCRA"), EPA is authorized to approve state solid waste management plans. Under Section 4007 of RCRA, the Administrator shall approve plans which meet the requirements of paragraphs (1), (2), (3) and (5) of Section 4003 of RCRA and contain procedures for revision. The criteria for approving those plans are set forth in EPA's Guidelines for Development and Implementation of State Solid Waste Management Plans ("Guidelines"), codified at 40 CFR Part 256. Among other things, the Guidelines require that plans identify a general strategy for achieving the following objectives:

- Protecting human health and the environment from adverse effects associated with solid waste disposal;
- Prohibiting the establishment of new open dumps;
- Upgrading or closing existing open dumps;
- Encouraging resource recovery and resource conservation;
- Providing adequate disposal capacity in the state;
- Establishing priorities for state solid waste activities; and
- Dealing with other issues relevant to solid waste management.

The State plan must also set forth the institutional arrangements that the State would use to implement this strategy.

Under RCRA, and as provided in the Guidelines, EPA's approval of a State plan has two major implications. First, it permits the State to issue compliance schedules which can shield entities from the Federal prohibition on open dumping in section 4005(a) of RCRA. Second, it may affect the State's eligibility for Federal funding under Sections 4007 and 4008 of RCRA. EPA is to withhold certain Subtitle D technical and financial assistance to the State if the Administrator at any time determines that the plan is no longer in compliance with the guidelines and withdraws approval. See section 4007(b)(3). It should be noted that financial assistance will not be available for FY '82 for any State.

On September 23, 1981 (46 FR 47048) EPA amended the Guidelines to authorize partial approval of State plans. These amendments authorize EPA to approve that portion of the State plan under which entities may, pursuant to 40 CFR 256.28, receive compliance schedules from the State leading to compliance with the open dumping prohibition of section 4005. In such a partial plan approval the Administrator must determine that:

- (1) The portion submitted satisfies § 256.28;
 - (2) The State has authority to issue and enforce compliance schedules; and
 - (3) The State will complete the remainder of the plan within a reasonable period of time.
- To date 33 State solid waste management plans have been submitted to EPA for approval. EPA partially funded the development of all of these State solid waste management plans. EPA now is soliciting public comment on whether these plans meet the requirements set forth in the Guidelines. In particular, EPA is seeking comment on the following issues:
- Do the plans effectively prohibit the establishment of new open dumps?
 - Do the plans provide authority to upgrade or close existing open dumps?
 - If a plan does not satisfy all of the requirements in the Guidelines, can EPA give partial approval, as discussed above? If partial approval is appropriate, what would be a reasonable period of time for completion of the full plan?
- For further information on availability of specific State plans contact:
- Region I, Paul Bedrosian, Hazardous Waste Program, John F. Kennedy Building, Boston, Massachusetts 02203, (617) 223-5775
- Region II, Evan Libit, Solid Waste Branch, 26 Federal Plaza, New York, N.Y. 10007, (212) 264-0504/5
- Region III, John Armstead, Solid Waste Program, 6th and Walnut Streets, Philadelphia, Pa. 19106, (212) 597-0980
- Region IV, Bill Holland, Solid Waste Unit, 345 Courtland Street NE., Atlanta, Ga. 30365, (404) 881-3016
- Region V, Judy Kertcher, Waste Management Branch, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886-4001
- Region VI, Larry Rexroat, Solid Waste Branch, 1201 Elm Street, First International Building, Dallas, Texas 75270, (214) 767-2645
- Region VII, Chet McLaughlin, Hazardous Waste Management Section, 324 East 11th Street, Kansas City, Missouri 64106, (816) 374-6534
- Region VIII, Charles Brinkman, Solid Waste Section, 1860 Lincoln Street, Denver, Colorado 80295, (303) 327-2221
- Region IX, Karen Schwinn, State Programs, 215 Fremont Street, San Francisco, California, 94105 (415) 556-9878
- Region X, Tobias A. Hegdahl, Solid Waste Programs, 1200 6th Avenue, Seattle, Washington 98101, (206) 442-1260.

State plans are also available from the respective States. For further information contact:

Alabama

Alfred S. Chipley, Director
Division of Solid Waste and Vector Control
Department of Public Health
Union Bank Building, Room 1212
Montgomery, Alabama 36103
(205) 832-6728

American Samoa

Pati Faiai, Executive Secretary
Environmental Quality Commission
American Samoa Government
Pago Pago, American Samoa 96799
Overseas Operator
(Commercial Call 633-4116)

Arizona

Tybaldo Canez, Chief
Bureau of Waste Control
Department of Health Services
State Health Building
1740 West Adams Street
Phoenix, Arizona 85007
(602) 255-1130

Arkansas

J. R. Bearden, Assistant Chief
Solid Waste Management Division
Department of Pollution Control and Ecology
P.O. Box 9683
8001 National Dr.
Little Rock, Arkansas 72219
(501) 526-7444

California

Dr. Harvey Collins, Chief
Environmental Health Branch
Department of Health Services
744 P Street
Sacramento, California 95814
(916) 322-2308
Terry Trumbull, Chairman
State Solid Waste Management Board
1020 9th St. Suite 300
Sacramento, California 95814
(916) 322-3330

Colorado

Dr. James Martin
Section Chief
Solid & Hazardous Waste Section
Colorado Department of Health
4210 E. 11th Ave.
Denver, Colorado 80220
(303) 320-8333

Connecticut

Toby Goodrich
Solid Waste Management Unit
Department of Environmental Protection
State Office Building
165 Capitol Ave.

Hartford, Connecticut 06115
(203) 566-3672

Florida

Robert W. McVety
Solid Waste Management Program
Department of Environmental
Regulation
Twin Towers Office Building, Room 421
2600 Blair Stone Rd.
Tallahassee, Florida 32301
(904) 488-0300

Georgia

Moses N. McCall, III, Chief
Land Protection Branch
Environmental Protection Division
Department of Natural Resources, Room
822
270 Washington St. S.W.
Atlanta, Georgia 30334
(404) 656-2833

Idaho

Bob Olson, Supervisor
Solid/Hazardous Materials Section
Department of Health and Welfare
State House
Boise, Idaho 83720
(208) 334-4108

Indiana

David Lamm, Chief
Solid Waste Management Section
Division of Sanitary Engineering
State Board of Health
1330 West Michigan St., Room A304
Indianapolis, Indiana 46206
(317) 633-0176

Kansas

Charles H. Linn, Chief
Solid Waste Management Section
Department of Health and Environment
Forbes Field, Building 321
Topeka, Kansas 66620
(913) 862-9390, Ext. 297

Kentucky

Jimmie D. Hankins, Director
Division of Hazardous Material and
Waste Management
Department of Natural Resources and
Environmental Protection
1121 Louisville Rd.
Pineville Plaza
Frankfort, Kentucky 40601
(502) 564-6716

Louisiana

Mary McDonald, Environmental
Resources Specialist
Department of Natural Resources
P.O. Box 44396
Baton Rouge, Louisiana 70804
(504) 342-1265

Maine

Rupert Neily, Director

Technical Services Division
Department of Environmental Protection
State House—Station 17
Augusta, Maine 04333
(207) 289-2111

Massachusetts

Mrs. Faye Siegfriedt
Bureau of Solid Waste Disposal
Department of Environmental
Management
Room 1905
Leverett Saltonstall Building
100 Cambridge Street
Boston, Massachusetts 02202
(617) 727-4293

Mississippi

Jack M. McMillan, Director
Bureau of Pollution Control
Department of Natural Resources
P.O. Box 10385
Jackson, Mississippi 39209
(601) 961-5121

Missouri

Carol Eighmey, Chief
Solid Waste Management Section
Department of Natural Resources
State Office Building
P.O. Box 1368
Jefferson City, Missouri 65102
(314) 751-3241

Montana

Duane L. Robertson, Chief
Solid Waste Management Bureau
Department of Health and
Environmental Sciences
Cogswell Bldg., Room A201
Helena, Montana 59601
(406) 449-2821

North Carolina

O. W. Strickland, Head
Solid & Hazardous Waste Management
Branch
Division of Health Services
Department of Human Resources
P.O. Box 2091
Raleigh, North Carolina 27602
(919) 733-2178

North Dakota

Jay Crawford, Director
Division of Environmental Waste
Management and Research
Department of Health
1200 Missouri Ave., 3rd floor
Bismarck, North Dakota 58505
(701) 224-2382

Ohio

Donald E. Day, Chief
Office of Land Pollution Control
Environmental Protection Agency
P.O. Box 1049
Columbus, Ohio 43216
(614) 466-8934

Oklahoma

Richard Thompson, Director
Solid Waste Division
Department of Health
P.O. Box 53551
1000 N.E. 10th St., Room 803
Oklahoma City, Oklahoma 73152
(405) 271-5338

Oregon

Ernest A. Schmidt, Administrator
Solid Waste Management Division
Department of Environmental Quality
P.O. Box 1760
522 S.W. Fifth Ave.
Portland, Oregon 97207
(503) 229-5913

Pennsylvania

Donald A. Lazarchik
Bureau of Solid Waste Management
Department of Environmental Resources
Fulton Building 8th floor
P.O. Box 2063
Harrisburg, Pennsylvania 17120
(717) 787-9870

Puerto Rico

Luis De La Cruz, Director
Solid and Hazardous Waste Programs
Environmental Quality Board
Office of the Governor
P.O. Box 11488
Sanjurjo, Puerto Rico 00910
(809) 725-2062

Rhode Island

Victor Bell
Solid Waste Management Program
Department of Environmental
Management
204 Cannon Building 75 Davis St.
Providence, Rhode Island 02908
(401) 831-4440

South Carolina

Hartsill W. Truesdale, Director
Solid Waste Management Branch
S.C. Department of Health and
Environmental Control
J. Marion Simms Building
2600 Bull St.
Columbia, South Carolina 29201
(803) 758-5681

South Dakota

Joel C. Smith, Chief
Air Quality and Solid Waste Programs
Department of Health
Joe Foss Building
Pierre, South Dakota 57501
(605) 773-3329

Tennessee

Tom Tiesler, Director
Division of Solid Waste Management
Bureau of Environmental Services
Department of Public Health

Capitol Hill Building, Suite 326
Nashville, Tennessee 37219
(615) 741-3424

Texas

Glenda Eppler
Division of Solid Waste Management
Texas Department of Health
1100 West 49th Street, T-602
Austin, Texas 78711
(512) 458-7271;
Dan Eden
Department of Water Resources
1700 North Congress, Room 237-1
P.O. Box 13087, Capitol Station
Austin, Texas 78711
(512) 475-2041

Vermont

Richard A. Valentinetti, Chief
Air and Solid Waste Programs
Agency of Environmental Conservation
State Affairs Building
Montpelier, Vermont 05602
(802) 828-3395

Washington

Earl Tower, Supervisor
Solid Waste Management Division
Department of Ecology
Olympia, Washington 98504
(206) 753-6883.

(See 4007(a), Pub. L. 94-580, 90 Stat. 2817 (42 U.S.C. 6947))

Dated: October 22, 1981.

Christopher J. Capper,
Acting Assistant Administrator.

[FR Doc. 81-32007 Filed 11-3-81; 8:45 am]

BILLING CODE 6560-30-M

40 CFR Part 256

[SW-FRL-1975-8]

Availability of Michigan State Solid Waste Management Plan and Request for Public Comment

AGENCY: Environmental Protection Agency.

ACTION: Notice of receipt and availability of state plan for public comment.

SUMMARY: On January 28, 1981, the State of Michigan submitted to the U.S. Environmental Protection Agency (U.S. EPA) its adopted State Solid Waste Management Plan, as required under 40 CFR Part 256. Additions and revisions to the plan were submitted July 9, 1981, and September 1, 1981. Section 4008(a)(1) of the Solid Waste Disposal Act, as amended by The Resource Conservation and Recovery Act of 1976, as amended, (RCRA) authorized financial assistance for the development and implementation of State plans. Under Section 4007 of RCRA, U.S. EPA

shall approve State plans which meet the requirements of paragraphs (1), (2), (3) and (5) of Section 4003 and which contain provisions for revision. Under the guidelines published in the July 31, 1979, *Federal Register* (44 FR 45066), U.S. EPA shall approve or disapprove a State plan within six months of submittal. This notice announces the availability of the Michigan State Plan and invites public comment on it. After review of the State plan and public comments, rulemaking action on the Michigan State Plan will be detailed in a separate *Federal Register* notice.

DATE: Comments must be received by: December 4, 1981.

ADDRESSES: Copies of the adopted Michigan State Solid Waste Management Plan are available for public inspection during normal business hours at the following addresses:

U.S. Environmental Protection Agency,
Region V, Waste Management Branch,
111 West Jackson Boulevard, Chicago,
Illinois 60604.

U.S. Environmental Protection Agency,
Headquarter's Library, Room 2404, 401
M Street SW., Washington, D.C.
20460.

Michigan Department of Natural
Resources, Resource Recovery
Division, 3800 West Saginaw, Lansing,
Michigan 48917, (517) 373-1818.

Written comments should be sent to:
Judy Kertcher, Chief, Regulatory
Analysis and Information Section,
Waste Management Branch, U.S. EPA,
Region V, 111 West Jackson Boulevard,
Chicago, Illinois 60604.

It is requested that you submit three
copies along with the original of any
comment.

FOR FURTHER INFORMATION CONTACT:
Lillian Bagus, Regulatory Analysis and
Information Section, Waste
Management Branch, U.S. EPA, Region
V, 111 West Jackson Boulevard,
Chicago, Illinois 60604, (312) 866-6142.

SUPPLEMENTARY INFORMATION: On July
31, 1979, (44 FR 45066), U.S. EPA
published guidelines for the
development and implementation of
State Solid Waste Management Plans
under the authority of Section 4002(b) of
the Solid Waste Disposal Act, as
amended by The Resource Conservation
and Recovery Act of 1976, as amended,
(RCRA). The guidelines establish the
requirements for State plans and
recommend methods and procedures to
meet those requirements.

Under Section 4007 of RCRA, the
Administrator shall approve plans
which meet the requirements of
paragraphs (1), (2), (3) and (5) of section

4003 and which contain provisions for
revision. To assist the public in their
review of the plan, these requirements
are summarized below:

1. The plan shall identify the
responsibilities of the State, local and
regional authorities in implementing the
plan and describe the means for
coordinating regional planning and
implementation. This includes the
distribution of Federal funds to these
authorities.

2. The plan shall prohibit the
establishment of new open dumps in
accordance with sections 4004 and 4005
and contain requirements that all solid
waste shall be utilized for resource
recovery or disposed of in sanitary
landfills or otherwise disposed of in an
environmentally sound manner.

3. The plan shall provide for the
closing or upgrading of all existing open
dumps in accordance with sections 4004
and 4005.

4. The plan shall provide that no State
or local government shall be prohibited
from entering into long-term contracts
for the purpose of resource recovery
projects.

5. The plan shall provide specific
provisions for revision.

In addition to the above requirements,
the plan must also address the
guidelines which were published in the
July 31, 1979, *Federal Register* and are
summarized below:

1. The plan shall provide for the
establishment of necessary State
regulatory powers.

2. The plan shall provide for adequate
resource conservation, recovery,
storage, treatment and disposal facilities
and practices necessary to use or
dispose of solid and hazardous waste in
an environmentally sound manner.

3. The plan shall provide for
coordination with Federal programs that
affect State solid waste.

4. The plan provide for public
participation in the development of the
plan, the annual work program, State
regulations and the permitting of
facilities.

If the State cannot meet all of the
above requirements, U.S. EPA may grant
partial approval as described in the
September 23, 1981, *Federal Register*.
This notice amends 40 CFR Part 256 to
allow for partial approval of the portion
of the State plan that would provide an
opportunity for compliance schedules
leading to compliance with the open
dumping prohibition. U.S. EPA will
consider the compliance schedule
portion of the plan for approval while
the State continues to work on the rest
of the plan.

U.S. EPA is currently reviewing the revised and adopted plan. At the completion of its review, U.S. EPA will publish a notice in the *Federal Register* announcing rulemaking action on these submittals. All interested persons are advised that these submittals are available for review at the locations listed above. Comments must be received by December 4, 1981.

Under Executive Order 12291 (Order) U.S. EPA must judge whether an action is a "major rule" and, therefore, subject to the requirements of a regulatory impact analysis. Today's action is not a major rule since it merely announces receipt and availability of the documents submitted by the State of Michigan and the public comment period. Rulemaking action on these documents will be detailed in a separate *Federal Register* notice.

(Section 4007(a), Public Law 94-580, 90 Stat. 2817 (42 U.S.C. 6947))

Dated: October 23, 1981.

Valdas V. Adamkus,
Regional Administrator.

[FR Doc. 81-33003 Filed 11-3-81; 8:45 am]

BILLING CODE 6560-38-M

40 CFR Part 256

[SW-5-FRL-1975-7]

Availability of Wisconsin State Solid Waste Management Plan and Request for Public Comment

AGENCY: Environmental Protection Agency.

ACTION: Notice of receipt and availability of State Plan for Public Comment.

SUMMARY: On February 2, 1981, the State of Wisconsin submitted to the U.S. Environmental Protection Agency (U.S. EPA) its adopted State Solid Waste Management Plan, as required under 40 CFR Part 256. Section 4008 (a)(1) of the Solid Waste Disposal Act, as amended by The Resource Conservation and Recovery Act of 1976, as amended, (RCRA) authorized financial assistance for the development and implementation of State plans. Under section 4007 of RCRA, U.S. EPA shall approve State Plans which meet the requirements of paragraphs (1), (2), (3) and (5) of Section 4003 and which contain provisions for revision. Under the guidelines published in the July 31, 1979, *Federal Register* (44 FR 45066), U.S. EPA shall approve or disapprove a State plan within six months of submittal. This notice announces the availability of the Wisconsin State Plan and invites public comment on it. After review of the State plan and public comments, rulemaking

action on the Wisconsin State Plan will be detailed in a separate *Federal Register* notice.

DATE: Comments must be received by: December 4, 1981.

ADDRESSES: Copies of the adopted Wisconsin State Solid Waste Management Plan are available for public inspection during normal business hours at the following addresses:

U.S. Environmental Protection Agency
Region V, Waste Management Branch,
111 West Jackson Boulevard, Chicago,
Illinois 60604

U.S. Environmental Protection Agency,
Headquarter's Library, Room 2404, 401
M Street, SW., Washington, D.C.
20460

Wisconsin Department of Natural
Resources, Bureau of Solid Waste, 125
South Webster Street, Madison,
Wisconsin, (608) 268-8805

Written comments should be sent to:
Judy Kertcher, Chief, Regulatory
Analysis and Information Section,
Waste Management Branch, U.S. EPA,
Region V, 111 West Jackson Boulevard,
Chicago, Illinois 60604.

It is requested that you submit three copies along with the original of any comment.

FOR FURTHER INFORMATION CONTACT:
Judith Stone, Regulatory Analysis and
Information Section, Waste
Management Branch, U.S. EPA, Region
V, 111 West Jackson Boulevard,
Chicago, Illinois 60604 (312) 886-4179.

SUPPLEMENTARY INFORMATION: On July 31, 1979, (44 FR 45066), U.S. EPA published guidelines for the development and implementation of State Solid Waste Management Plans under the authority of section 4002(b) of the Solid Waste Disposal Act, as amended by The Resource Conservation and Recovery Act of 1976, as amended, (RCRA). The guidelines establish the requirements for State plans and recommend methods and procedures to meet those requirements.

Under section 4007 of RCRA, the Administrator shall approve plans which meet the requirements of paragraphs (1), (2), (3) and (5) of section 4003 and which contain provisions for revision. To assist the public in their review of the plan, these requirements are summarized below:

1. The plan shall identify the responsibilities of the State, local and regional authorities in implementing the plan and describe the means for coordinating regional planning and implementation. This includes the distribution of Federal funds to these authorities.

2. The plan shall prohibit the establishment of new open dumps in accordance with sections 4004 and 4005 and contain requirements that all solid waste shall be utilized for resource recovery or disposed of in sanitary landfills or otherwise disposed of in an environmentally sound manner.

3. The plan shall provide for the closing or upgrading of all existing open dumps in accordance with sections 4004 and 4005.

4. The plan shall provide that no State or local government shall be prohibited from entering into long-term contracts for the purpose of resource recovery projects.

5. The plan shall provide specific provisions for revision.

In addition to the above requirements, the plan must also address the guidelines which were published in the July 31, 1979, *Federal Register* and are summarized below:

1. The plan shall provide for the establishment of necessary State regulatory powers.

2. The plan shall provide for adequate resource conservation, recovery, storage, treatment and disposal facilities and practices necessary to use or dispose of solid and hazardous waste in an environmentally sound manner.

3. The plan shall provide for coordination with Federal programs that affect State solid waste.

4. The plan shall provide for public participation in the development of the plan, the annual work program, State regulations and the permitting of facilities.

If the State cannot meet all of the above requirements, U.S. EPA may grant partial approval as described in the September 23, 1981, *Federal Register*. In that notice, U.S. EPA amended 40 CFR Part 256 to allow for partial approval of the portion of the State plan that would provide an opportunity for compliance schedules leading to compliance with the open dumping prohibition. U.S. EPA will consider the compliance schedule portion of the plan for approval while the State continues to work on the rest of the plan.

U.S. EPA is currently reviewing the revised and adopted plan. At the completion of its review, U.S. EPA will publish a notice in the *Federal Register* announcing rulemaking action on these submittals. All interested persons are advised that these submittals are available for review at the locations listed above. Comments must be received by December 4, 1981.

Under Executive Order 12291 (Order), U.S. EPA must judge whether an action is a "major rule" and, therefore, subject

to the requirements of a regulatory impact analysis. Today's action is not a major rule since it merely announces receipt and availability of the documents submitted by the State of Wisconsin and the public comment period. Rulemaking action on these documents will be detailed in a separate Federal Register notice.

(Section 4007(a), Pub. L. 94-580, 90 Stat. 2817, (42 U.S.C. 6947))

Dated: October 23, 1981.

Valdas V. Adamkus,

Regional Administrator.

(PR Doc. 81-33002 Filed 11-3-81; 8:45 am)

BILLING CODE 6560-38-M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

41 CFR Parts 14-1, 14-3, 14-4, 14-6, 14-7, 14-9, 14-10, 14-16, 14-17, 14-18, 14-19, 14-30, 14-63

Interior Procurement Regulations

AGENCY: Department of the Interior.

ACTION: Proposed rule.

SUMMARY: This section proposes to make revisions to provisions of the Interior Procurement Regulation (IPR) System which are of interest to business concerns and other interested parties. This action is being taken since these rules were scheduled for review on the Department's Semiannual Agenda of Rules published in the Federal Register on April 30, 1981 (46 FR 24496). The revisions are expected to eliminate, reduce, or simplify existing procurement regulations affecting the public.

DATE: Comments must be received on or before December 4, 1981.

ADDRESS: Division of Acquisition and Grants, Office of Acquisition and Property Management, Department of the Interior, 18th & "C" Streets, NW, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: William Opdyke, (202) 343-6431.

SUPPLEMENTARY INFORMATION:

Explanation: In response to Secretary Watt's January 28, 1981, request for identification of excessive, burdensome, or counterproductive rules, the Interior Procurement Regulations (IPR) codified under Chapter 14 of 41 CFR were specifically targeted for review and included on the Department's Semiannual Agenda of Rules Scheduled for Review or Development.

This rulemaking action is the second of two actions revising 41 CFR Chapter 14. The first action, published as a final rule in the Federal Register on October 8,

1981, established new procedures for issuance and maintenance of the Department's procurement regulations and removed most internal provisions which were not of interest to business concerns. These internal procedures were reduced, revised, or eliminated and issued as internal directives.

This action proposes changes to the provisions of the IPR which do affect business concerns. In addition, all remaining internal procedures have been removed and several new provisions have been added to update the regulations.

A summary of all changes proposed under this rulemaking notice is as follows:

Section and Action

- §§ 14-1.318 and 14-1.318-4—Revised to coincide with FPR and simplify implementation of the Contract Disputes Act of 1978
- § 14-1.327-5—Revised to remove internal procedures
- § 14-1.350—Revised to remove internal procedures, update "Release of Claims" clause, and the conditions for its use
- § 14-1.351—Revised to reference the Paperwork Reduction Act of 1980 and establish a single contract clause to replace the three existing clauses
- §§ 14-3.808 thru 14-3.808-7—Added to establish the Department's uniform profit policy as required by FPR Temp. Reg. 61
- § 14-3.809—Revised to reflect current organizational responsibilities involving the Office of Inspector General
- § 14-4.1004-3—Revised to clarify and simplify additional evaluation criteria for evaluating architect-engineer firms
- § 14-4.1006-1—Revised to clarify policy
- § 14-4.1006-2—Added to ensure architect-engineer firms understand the Department's policies on conflicts of interest
- § 14-4.1050—Revised to reference uniforms use of FPR "Key Personnel" clause
- §§ 14-4.5101 through 4.5101-3—Removed since adequate coverage is contained in FPR Subpart 1-4.9 Procedures for handling unsolicited proposals will be issued in a future rulemaking action
- § 14-4.5206—Revised to simplify qualification requirements for real property appraisal service contractors
- § 14-4.5207—Removed to eliminate internal agency procedures
- § 14-4.5208—Revised to clarify appraisal standards requirements
- Part 14-6—Removed (see below)
- § 14-6.104-3—Removed since FPR "Buy American" certification is adequate
- § 14-6.104-4—Removed to eliminate internal agency procedures
- §§ 14-7.150-2 and 14-7.650-2—Removed since clause is unnecessary
- §§ 14-7.150-4, 14-7.150-5, 14-7.650-8, and 14-7.650-9—Revised to simplify Departmental examination of records and audit requirements imposed on contractors
- §§ 14-7.150-6, 14-7.250, 14-7.250-1, 14-7.350, 14-7.350-1, 14-7.450, 14-7.450-1, 14-7.650-

- 11—Added to reference "Release of Claims" clause
- § 14-7.203, 14-7.203-15, 14-7.403, and 14-7.402-15—Removed since further implementation of FPR clause is unnecessary
- § 14-7.650-1—Removed to simplify bonding requirements for construction contractors
- § 14-7.650-3—Removed since FPR coverage is adequate
- § 14-7.650-5—Revised to remove three subparagraphs involving internal agency procedures
- § 14-7.650-10—Added to reference "Prohibition Against Use of Lead-Based Paint" clause
- § 14-7.5001—Revised to update title of clause
- § 14-9.107 and 14-9.107-3—Added to clarify Departmental patent policies
- §§ 14-10.109 and 14-10.109-50—Removed to eliminate internal agency procedures
- § 14-10.450 (§ 14-10.401)—Redesignated as § 14-10.401 to correspond with FPR format; revised to clarify Department's policies on insurance
- § 14-10.451 (§ 14-10.401-50)—Redesignated as § 14-10.401-50 and revised to simplify insurance requirements under aircraft services contracts
- § 14-16.703—Added to reference requirement for FPR "Key Personnel" clause in architect-engineer contracts
- §§ 14-17.101 and 14-17.150—Added to clarify use of indemnification provision in FPR § 1-7.204-5
- § 14-18.604—Revised to simplify Buy American Act invitation provision for evaluation of construction bids
- §§ 14-19.108 and 14-19.108-50—Revised to simplify implementation of FPR § 1-19.108-2
- §§ 14-30.414 and 14-30.414-2—Revised to clarify use of contract provisions for advance payments
- § 14-63.101—Revised to clarify organizational responsibility for contract audits
- §§ 14-63.103 and 14-63.104—Revised to simplify requirements for additional "Examination of Records" clause. Two additional audit clauses removed.

Impact: The Director, Office of Management and Budget has exempted agency procurement regulations from the requirements of Executive Order 12291 pursuant to a memorandum dated April 8, 1981. The Department of the Interior certifies that this rule will not have a significant economic effect on a substantial number of small entities.

Accordingly, amendments are proposed to 41 CFR Chapter 14 as stated below, pursuant to the authority of the Secretary of the Interior contained in Sec. 205 (c), 63 Stat. 390; 40 U.S.C. 486 (c), and 5 U.S.C. 301.

Dated: October 27, 1981.

Richard R. Hite,

Assistant Secretary of the Interior.

PART 14-1—GENERAL

1. The Table of Contents for Part 14-1 is amended to remove § 14-1.318-1, add

a new § 14-1.318-4, and change the caption of §§ 14-1.318 and 14-1.351 as follows:

Subpart 14-1.3—General Policies

1. The caption for § 14-1.318 is revised to read as follows:

Sec.

• • • • •

14-1.318 Disputes.

14-1.318-1 [Removed]

14-1.318-4 Contracting officer's decision.

• • • • •

14-1.351 Paperwork Reduction Act of 1980.

• • • • •

Subpart 14-1.3—General Policies

§ 14-1.318 Disputes.

2. Section 14-1.318-1 is removed and a new § 14-1.318-4 is added to read as follows:

§ 14-1.318 Disputes

§ 14-1.318-1 [Removed]

§ 14-1.318-4 Contracting officer's decision.

A final decision issued by a contracting officer shall include the paragraph under FPR § 1-1.318-4(b)(1), except the second sentence shall be modified to read as follows: "This decision may be appealed to the Department of the Interior, Office of Hearings and Appeals, Interior Board of Contract Appeals, 4015 Wilson Boulevard, Arlington, Virginia 22203."

3. Section 14-1.327-5 is amended by removing paragraphs (a) and (b) and the designation for paragraph (c) to read as follows:

§ 14-1.327 Protection of the privacy of individuals.

§ 14-1.327-5 Procedures.

The Privacy Act clause under FPR § 1.327-5(c) shall be supplemented by adding a paragraph (d) as follows:

Privacy Act

• • • • •

(d) The regulations of the Department of the Interior implementing the Privacy Act of 1974 are set forth in 43 CFR Subtitle A, Part 2, Subpart D. A copy of the regulations may be obtained by submitting a written request to the Departmental Privacy Act Officer, Office of the Assistant Secretary—Policy, Budget, and Administration, Department of the Interior, 18th and E Streets, N.W., Washington, D.C. 20240.

4. Section 14-1.350 is amended to remove paragraph (a); redesignate paragraphs (b), (c) and (d) as paragraphs (a), (b) and (c), respectively; revise paragraph (a), and revise the "Release of Claims" clause in paragraph (b). As revised, § 14-1.350 reads as follows:

§ 14-1.350 Obtaining a release of claims.

(a) A release of claims shall be required in all construction contracts and all cost-reimbursement contracts which exceed \$10,000. Depending upon the circumstances present, a release of claims may be required in service (including architect-engineer) and supply contracts and fixed-price research and development contracts.

(b) Contracts requiring a release of claims shall include a clause substantially as follows:

Release of Claims

After completion of work, and prior to final payment, the Contractor shall furnish to the Contracting Officer, a release of claims against the United States relating to the contract, other than claims specifically excepted from the operation of the release.

(c) Form DI-137 (see IPR § 14-16.850) shall be used for all contracts requiring a release of claims.

5. Section 14-1.351 is amended by changing its caption and revising paragraphs (a), (b), and (c). As revised, § 14-1.351 reads as follows:

§ 14-1.351 Paperwork Reduction Act of 1980.

(a) *General.* The Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.) requires that no federal agency shall conduct or sponsor the collection of information, upon identical items, from ten or more public respondents unless prior approval is obtained from the Office of Management and Budget.

(b) *Procedures.* For contracts which require the collection of information subject to the Paperwork Reduction Act, data requirements shall be defined and clearance obtained prior to issuance of the solicitation, when practical, in accordance with the requirements of Part 305, Chapter 2 of the Department Manual (305 DM 2).

(c) *Clause.* The following clause shall be included in solicitations, and resulting contracts, when performance of the work requires, or may require, collection of information subject to the Paperwork Reduction Act of 1980:

Paperwork Reduction Act

If performance of this contract requires collection of information from ten or more public respondents, no funds shall be expended or any action taken in the solicitation or collection of such information until the contractor has received from the contracting officer written notification that approval has been obtained from the Office of Management and Budget (OMB) pursuant to the Paperwork Reduction Act of 1980. The contractor shall provide the contracting officer with all information necessary to obtain approval from OMB.

PART 14-3—PROCUREMENT BY NEGOTIATION

1. The Table of Contents for Part 14-3 is amended to add new §§ 14-3.808 thru 14-3.808-7 as follows:

Subpart 14-3.8—Price Negotiation Policies and Techniques

Sec.

14-3.808 Profit or fee.

14-3.808-1 Policy.

14-3.808-2 Structured approach.

14-3.808-3 Profit objective.

14-3.808-4 Profit factors.

14-3.808-5 Contractor effort.

14-3.808-6 Other factors.

14-3.808-7 Facilities capital cost of money.

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c), 5 U.S.C. 301.

2. New §§ 14-3.808 thru 14-3.808-7 are added to read as follows:

Subpart 14-3.8—Price Negotiation Policies and Techniques

§ 14-3.808 Profit or fee.

§ 14-3.808-1 Policy.

(a) *General.* Profit generally is the basic motive of business enterprise and it is the policy of the Department to utilize profit to stimulate efficient contract performance. The Government and its contractors should be concerned with harnessing this motive to work for more effective and economical contract performance. Negotiation of very low profits, the use of historical averages or the automatic application of a predetermined percentage to the total estimated cost of a product, does not provide the motivation to accomplish such performance. Negotiations aimed merely at reducing profits, with no realization of the function of profit are not in the Government's best interest. For each contract in which profit is negotiated as a separate element of the contract price, the aim of negotiation should be to employ the profit motive so as to impel effective contract performance by which overall costs are economically controlled. To this end, the profit objective must be fitted to the circumstances of the particular procurement, giving due weight to contractor effort, risk assumed, investment required, complexity of the work to be performed, and other factors appropriate to the circumstances. However, nothing in this Regulation requires or suggests the use of a profit objective which is higher than that proposed by the contractor.

(b) *Contracts Priced on the Basis of Cost Analysis.* When cost analysis is performed pursuant to FPR § 1-3.807-2, profit consideration shall be in accordance with the objectives set forth below.

The Government should establish a profit objective for contract negotiations which will:

(i) Motivate contractors to undertake more difficult work requiring higher skills and reward those who do so;

(ii) allow the contractor an opportunity to earn profits commensurate with the extent of the cost risk it is willing to assume; and

(iii) encourage contractors to provide their own facilities and financing and establish their competence through development work undertaken at their own risk and reward those who do so.

The structured approach set forth below for establishing profit objectives is designed to provide guidance in applying these principles. This approach, properly applied, will tailor profits to the circumstances of each contract and provide a spread of profits which is commensurate with varying circumstances. The structured approach shall be used in all contracts where cost analysis is performed except as set forth in § 14-3.808-2(b) below.

(c) *Contracts Priced Without Cost Analysis.* On many contracts and subcontracts, good pricing does not require an examination into costs and profits. Where adequate price competition exists and in other situations where cost analysis is not required (see FPR § 1-3.807), fixed-price type contracts will be awarded to the lowest responsible offerors without regard to the amount of their profits. Under these circumstances, the profit which is anticipated, or in fact earned, should not be of concern to the Government. In such cases, if a low offeror earns a large profit, it should be considered the normal reward of efficiency in a competitive system and efforts should not be made to reduce such profits.

(d) *The Cost of Money for Facilities Capital.* When profit analysis is required, the cost of money for facilities capital (FPR § 1-15.205-51) shall not be included when measuring the contractor's effort. Contract effort for this purpose shall be restricted to normal, booked costs. Further, a reduction in the profit objective shall be made in an amount equal to the amount of facilities capital cost of money allowed in accordance with FPR § 1-15.205-51. This policy shall apply to any tier subcontract or modifications thereto.

§ 14-3.808-2 Structured approach.

(a) *General.* (1) The structured approach provides contracting officers with a technique that will insure consideration of the relative value of the appropriate profit factors described in

§ 14-3.808-4 in the establishment of a profit objective for the conduct of negotiations. The contracting officer's analysis of these profit factors is based on information available to him prior to negotiations. Such information is furnished in proposals, audit data, performance reports, pre-award surveys and the like. The structured approach also provides a basis for documentation of this objective, including an explanation of any significant departure from this objective in reaching a final agreement. The extent of documentation should be directly related to the dollar value importance, and complexity of the proposed procurement.

(2) The contractor's proposal will include cost information for evaluation and a total proposed profit. Contractors shall not be required to submit the details of their profit objectives but they shall not be prohibited from doing so if they desire. Elaborate and voluminous presentations are neither required nor desired.

(3) The negotiation process does not contemplate or require agreement on either estimated cost elements or profit elements. The profit objective is a part of an overall negotiation objective which, as a going-in objective, bears a distinct relationship to the target cost objective and any proposed sharing arrangement. Since the profit is merely one of several interrelated variables, the Government negotiator shall not complete the profit negotiation without prior agreement on the other variables. Specific agreement on the exact weights or values of the individual factors is not required and should not be attempted.

(b) *Exceptions.* (1) Under the following listed circumstances, other methods for establishing profit objectives may be used. Generally, it is expected that such methods will be supported in a manner similar to that used in the structured approach (profit factor breakdown and documentation of profit objective); however, factors within the structured approach considered inapplicable to the procurement will be excluded from the profit objective.

(i) All procurements where cost analysis is not required;

(ii) architect-engineer contracts;

(iii) management contracts for operation and/or maintenance of Government facilities;

(iv) construction contracts;

(v) contracts primarily requiring delivery of material supplied by subcontractors;

(vi) termination settlements; and

(vii) cost-plus-award-fee contracts (however, contracting officers may find it advantageous to perform a structured

profit analysis as an aid in arriving at an appropriate fee arrangement).

(2) Other exceptions may be made in the negotiation of contracts having unusual pricing situations. Such exceptions shall be justified in writing and authorized by the head of the procuring activity or designee in situations where the structured approach is determined to be unsuitable.

(c) *Limitation.* In the event this or any other method would result in establishing a fee objective in violation of limitations established by Statute or this Regulation, the maximum fee objective shall be the percentage allowed pursuant to such limitations (see FPR § 1-3.405-5).

§ 14-3.808-3 Profit objective.

(a) A profit objective is that part of the estimated contract price objective or value which, in the judgment of the contracting officer, is appropriate for the procurement being considered. This objective should realistically reflect the total overall task to be performed and the requirements placed on the contractor. Prior to the negotiation of a contract, change order, or contract modification, where cost analysis is undertaken, the negotiator shall develop a profit objective. The structured approach, if applicable, shall be used for developing this profit objective. If a change or modification is of a relatively small dollar amount and is basically the same type of work as required in the basic contract, the application of the structured approach will generally result in a profit objective similar to the profit objective in the basic contract, and therefore, this basic rate may be applied to the contract change or modification. However, in cases where the change or modification calls for substantially different work, or if the dollar amount of the change or contract modification is significant, a detailed analysis should be made.

(b) Development of a profit objective should not begin until after (1) a thorough review of proposed contract work; (2) review of all available knowledge regarding the contractor, pursuant to FPR Subpart 1-1.12. Including capability reports, audit data, pre-award survey reports and financial statements, as appropriate; and (3) analysis of the contractor's cost estimate and comparison with the Government's estimate or projection of cost.

§ 14-3.808-4 Profit factors.

(a) The following factors shall be considered in all cases in which profit is to be specifically negotiated. The weight

ranges listed after each factor shall be used in all instances where the structured approach is used.

Profit factors	Weight range (percent)
1. Contractor effort:	
Material Acquisition.....	1 to 4.
Direct Labor.....	4 to 12.
Overhead.....	3 to 8.
Other Costs.....	1 to 3.
General Management.....	4 to 8.
2. Other factors:	
Cost Risk.....	0 to 7.
Investment.....	-2 to +2.
Performance.....	-1 to +1.
Socio-Economic Programs.....	-5 to +5.
Special Situations.....	

(b) Under the structured approach the contracting officer shall first measure the "Contractor Effort" by the assignment of a profit percentage within the designated weight ranges to each element of contract cost recognized by the contracting officer. Not to be included for the computation of profit as part of the cost base is the amount calculated for the cost of money for facilities capital.

(c) The suggested categories under the Contractor Effort are for reference purposes only. Often individual proposals will be in a different format; but since these categories are broad and basic, they provide sufficient guidance to evaluate all other items of cost.

(d) After computing a total dollar profit for the Contractor Effort, the contracting officer shall then calculate the specific profit dollars assigned for cost risk, investment, performance, socio-economic programs, and special situations. This is accomplished by multiplying the total Government Cost Objective, exclusive of any cost of money for facilities capital, by the specific weight assigned to the elements within the Other Factors category.

(e) In making a judgment of the value of each factor, the contracting officer should be governed by the definition, description, and purpose of the factors together with considerations for evaluating them as set forth in §§ 14-3.808-5 and 14-3.808-6.

(f) The structured approach was designed for arriving at profit or fee objectives for other than nonprofit organizations. However, if appropriate adjustments are made to reflect differences between profit and nonprofit organizations, the structured approach can be used as a basis for arriving at fee objectives for nonprofit organizations. Therefore, the structured approach, as modified in (2) below, shall be used to establish fee objectives for non-profit organizations. The modifications should not be applied as deductions against historical fee levels, but rather, to the

fee objective for such a contract as calculated under the structured approach.

(1) For purposes of this subparagraph, nonprofit organizations are defined as those business entities organized and operated exclusively for charitable, scientific, or educational purposes, no part of the net earnings of which inure to the benefit of any private shareholder or individual, and which are exempt from Federal income taxation under Section 501 of the Internal Revenue Code.

(2) For contracts with nonprofit organizations where fees are involved, an adjustment of up to 3% will be subtracted from the total profit/fee objective. In developing this adjustment, it will be necessary to consider the following factors:

- (i) Tax position benefits;
- (ii) granting of financing through letters of credit;
- (iii) facility requirements of the nonprofit organization; and
- (iv) other pertinent factors which may work to either the advantage or disadvantage of the contractor in its position as a nonprofit organization.

§ 14-3.808-5 Contractor Effort.

(a) *General.* This factor is a measure of how much the contractor is expected to contribute to the overall effort necessary to meet the contract performance requirements in an efficient manner. This factor, which is apart from the contractor's responsibility for contract performance, takes into account what resources are necessary and what the contractor must do to accomplish a conversion of ideas and materials into the final product called for in the contract. This is a recognition that within a given performance output, or within a given sales dollar figure, necessary efforts on the part of individual contractors can vary widely in both value and quantity, and that the profit objective should reflect the extent and nature of the contractor's contribution to total performance. A major consideration, particularly in connection with experimental, developmental, or research work, is the difficulty or complexity of the work to be performed, and the unusual demands of the contract, such as whether the project involves a new approach unrelated to existing equipment or only refinements on existing equipment. The evaluation of this factor requires an analysis of the cost content of the proposed contract as follows.

(b) *Material Acquisition (Subcontracted Items, Purchased Parts, and Other Material).* Analysis of these cost items shall include an evaluation of

the managerial and technical effort necessary to obtain the required purchased parts, subcontracted items, and other materials, including special tooling. This evaluation shall include consideration of the number of orders and suppliers, and whether established sources are available or new sources must be developed. The contracting officer shall also determine whether the contractor will, for example, obtain the material and tooling by routine orders from readily available supplies (particularly those of substantial value in relation to the total contract cost), or by detailed subcontracts for which the prime contractor will be required to develop complex specifications involving creative design or close tolerance manufacturing requirements. Consideration should be given to the managerial and technical efforts necessary for the prime contractor to administer subcontracts, and select subcontractors, including efforts to break out subcontracts from sole sources, through the introduction of competition. These determinations should be made for purchases of raw materials or basic commodities, purchases of processed material including all types of components of standard or near standard characteristics, and purchases of pieces, assemblies, subassemblies, special tooling, and other products special to the end-item. In the application of this criterion, it should be recognized that the contractor's purchasing program might make a substantial contribution to the performance of the contract. This might be applicable in the management of subcontracting programs involving many sources, involving new complex components and instrumentation, incomplete specifications, and close surveillance by the prime contractor's representative. Recognized costs proposed as direct material costs such as scrap charges shall be treated as material for profit evaluation. If intracompany transfers are accepted at price, in accordance with FPR § 1-15.205-22(e), they shall be evaluated as material. Other intracompany transfers shall be evaluated by individual components of cost, i.e., material, labor, and overhead.

(c) *Direct Labor (Engineering, Service, Manufacturing, and Other Labor).* Analysis of the various labor items of the cost content of the contract should include evaluation of the comparative quality and level of the engineering talents, service contract labor, manufacturing, skills, and experience to be employed. In evaluating engineering labor for the purpose of assigning profit

dollars, consideration should be given to the amount of notable scientific talent or unusual or scarce engineering talent needed in contrast to journeyman engineering effort or supporting personnel. The diversity, or lack thereof, of scientific and engineering specialties required for contract performance and the corresponding need for engineering supervision and coordination should be evaluated. Such circumstances as whether the caliber or class of engineer involved is that of an "idea-man," or whether the contractor is required by the contract to assign to the work, because of its nature, unusually skilled talent should be considered as part of the evaluation. Service contract labor should be evaluated in a like manner by assigning higher weights to engineering or professional type skills and lower weights to semi-professional or other type skills required for contract performance. Similarly, the variety of manufacturing and other categories of labor skills required and the contractor's manpower resources for meeting these requirements should be considered. For purposes of evaluation, categories of labor (i.e., quality control, receiving and inspecting, etc.) which do not fall within the definition for engineering, service or manufacturing labor may be categorized as appropriate. However, the same evaluation considerations as outlined above will be applied.

(d) Overhead and General Management (G&A).

(1) Analysis of these overhead items of cost includes the evaluation of the make-up of these expenses and how much they contribute to contract performance. To the extent practicable, analysis should include a determination of the amount of labor within these overhead pools and how this labor would be treated if it were considered as direct labor under the contract. The allocable labor elements should be given the same profit consideration that they would receive if they were treated as direct labor. The other elements of these overhead pools should be evaluated to determine whether they are routine expenses such as utilities and maintenance, and hence given lesser profit consideration, or whether they are significant contributing elements. The composite of the individual determinations in relation to the elements of the overhead pools will be the profit consideration given the pools as a whole.

(2) It is not necessary that the contractor's accounting system break down overhead expenses within the classification of engineering overhead, manufacturing overhead, other overhead

pools, and general and administrative expenses, unless dictated otherwise by Cost Accounting Standards (CAS). The contractor whose accounting system only reflects one overhead rate on all direct labor need not change its system (if CAS exempt) to correspond with the above classifications. The contracting officer, in an evaluation of such a contractor's overhead rate, could break out the applicable sections of the composite rate which could be classified as engineering overhead, manufacturing overhead, other overhead pools, and general and administrative expenses, and follow the appropriate evaluation technique.

(3) Management problems surface in various degrees and the management expertise exercised to solve them should be considered as an element of profit. For example, a new program for an item which is on the cutting edge of the state of the art will cause more problems, require more managerial time, and abilities of a higher order, than one which is a follow-on contract. If new contracts create more problems and require a higher profit weight, follow-ons should be adjusted downward as many of the problems should have been solved. In any event, an evaluation should be made of the underlying managerial effort involved on a case-by-case basis.

(4) It may not be necessary for the contracting officer to make a separate profit evaluation of overhead expenses in connection with each procurement action for substantially the same product with the same contractor. Where an analysis of the profit weight to be assigned to the overhead pool has been made, that weight assigned may be used for future procurements with the same contractor until there is a change in the cost composition of the overhead pool or the contract circumstances, or the factors discussed in (3) above are involved.

(e) *Other Costs.* Include all other direct costs associated with contractor performance under this item (e.g., travel and relocation, direct support, and consultants). Analysis of these items of cost should include (i) the significance of the cost to contract performance, (ii) nature of the cost, and (iii) how much they contribute to contract performance.

§ 14-3.808-6 Other Factors.

(a) *Contract Cost Risk.* The degree of risk assumed by the contractor should influence the amount of profit or fee a contractor is entitled to anticipate. For example, where a portion of the risk has been shifted to the government through cost-reimbursement or price redetermination provisions, unusual

contingency provisions, or other risk-reducing measures, the amount of profit or fee should be less than where the contractor assumes all the risk. In developing the pre-negotiation profit objective, the contracting officer will need to consider the type of contract anticipated to be negotiated and the contractor risk associated therewith when selecting the position in the weight range for profit that is appropriate for the risk to be borne by the contractor. This factor should be one of the most important in arriving at pre-negotiation profit objectives.

(1) Evaluation of this risk requires a determination of (i) the degree of cost responsibility the contractor assumes, (ii) the reliability of the cost estimates in relation to the task assumed, and (iii) the complexity of the task assumed by the contractor. This factor is specifically limited to the risk of contract costs. Thus, such risks on the part of the contractor as reputation, losing a commercial market, risk of losing potential profits in other fields, or any risk on the part of the procurement office, are not within the scope of this factor.

(2) The first and basic determination of the degree of cost responsibility assumed by the contractor is related to the sharing of total risk by contract cost by the Government and the contractor through the selection of contract type. The extremes are a cost-plus-a-fixed-fee contract requiring the contractor to use his best efforts to perform a task, and a firm fixed-price contract for a complex item. A cost-plus-a-fixed-fee contract would reflect a minimum assumption of cost responsibility, whereas a firm fixed-price contract would reflect a complete assumption of cost responsibility. Where proper contract type selection has been made, the regard for risk by contract type would usually fall into the following percentage ranges:

	Percent
Cost Reimbursement Type Contracts	0 to 3.
Fixed Price Type Contracts	3 to 7.

(3) The second determination is that of the reliability of the cost estimates. Sound price negotiation requires well-defined contract objectives and reliable cost estimates. Prior experience assists the contractor in preparing reliable cost estimates on new procurements for similar equipment. An excessive cost estimate reduces the possibility that the cost of performance will exceed the contract price, thereby reducing the

contractor's assumption of contract cost risk.

(4) The third determination is that of the difficulty of the contractor's task. The contractor's task can be difficult or easy, regardless of the type of contract.

(i) Within the above ranges, a cost-plus-a-fixed-fee contract normally would not justify a reward for risk in excess of 0%, unless the contract contains cost risk features such as ceilings on overheads, etc. In such cases, up to ½% may be justified. Cost-plus-incentive-fee contracts fill the remaining portion of the above cost range with weightings directly related to such factors as confidence in target cost, share ratio of fee(s), etc. The range for fixed-price contracts is wide enough to accommodate the many types of fixed-price arrangements. These include fixed-price-incentive, firm fixed-price with economic price adjustment, fixed price with prospective or retroactive price redetermination, and firm fixed-price contracts. Weighting should be indicative of the price risk assumed and the end item required, with only firm fixed-price contracts with requirements for prototypes or hardware reaching the top end of the range.

(ii) The contractor's subcontracting program may have a significant impact on the contractor's acceptance of risk under a contract form. It could cause risk to increase or decrease in terms of both cost and performance. This consideration should be a part of the contracting officer's overall evaluation in selecting a factor to apply for cost risk. It may be determined, for instance, that the prime contractor has effectively transferred real cost risk to a subcontractor and the contract cost risk evaluation may, as a result, be below the range which would otherwise apply for the contract type being proposed. The contract cost risk evaluation should not be lowered, however, merely on the basis that a substantial portion of the contract costs represents subcontracts without any substantial transfer of contractor's risk.

(iii) In making a contract cost risk evaluation in a procurement action that involves definitization of a letter contract, unpriced change orders, and unpriced orders, under BOA's; consideration should be given to the effect on total contract cost risk as a result of having partial performance before definitization. Under some circumstances it may be reasoned that the total amount of cost risk has been effectively reduced. Under other circumstances it may be apparent that the contractor's cost risk remained substantially unchanged. To be equitable the determination of a profit

weight for application to the total of all recognized costs, both those incurred and those yet to be expended, must be made with consideration to all attendant circumstances; not just be the portion of costs incurred, or percentage of work completed, prior to definitization.

(iv) Time and material and labor hour contracts will be considered to be cost-plus-a-fixed-fee contracts for the purpose of establishing profit weights, unless otherwise exempt under § 14-3.808-2(b) in the evaluation of the contractor's assumption of contract cost risk.

(b) *Investment.* The Department encourages its contractors to perform their contracts with the minimum of financial, facilities, or other assistance from the Government. As such, it is the purpose of this factor to encourage the contractor to acquire and use its own resources to the maximum extent possible. The evaluation of this factor should include an analysis of the following:

(1) *Facilities.* To evaluate how this factor contributes to the profit objective requires knowledge of the level of facilities utilization needed for contract performance, the source and financing of the required facilities and the overall cost effectiveness of the facilities offered. Contractors who furnish their own facilities which significantly contribute to lower total contract costs should be provided with additional profit. On the other hand, contractors who rely on the Government to provide or finance needed facilities should receive a corresponding reduction in profit. Cases between the above examples should be evaluated on their merits with either a positive or negative adjustment, as appropriate, in profit being made. However, where a highly facilitated contractor is to perform a contract which does not benefit from this facilitation or where a contractor's use of its facilities has a minimum cost impact on the contract, profit need not be adjusted.

(2) *Payments.* In analyzing this factor, consideration should be given to the frequency of payments by the Government to the contractor. The key to this weighting is to give proper consideration to the impact the contract will have on the contractor's cash flow. Generally, negative consideration should be given for payments more frequent than monthly with maximum reduction being given as the contractor's working capital approaches zero. Positive consideration should be given for payments less frequent than monthly with additional consideration given for a capital turnover rate on the contract

which is less than the contractor's or the industry's normal capital turnover rate.

(c) *Contractor's Performance.* The contractor's past and present performance should be evaluated in such areas as quality of product, meeting performance schedules, efficiency in cost control (including need for and reasonableness of cost incurred), accuracy and reliability of previous cost estimates, degree of cooperation by the contractor (both business and technical), timely processing of changes and compliance with other contractual provisions, and management of subcontract programs. Where a contractor has consistently achieved excellent results in the foregoing areas in comparison with other contractors in similar circumstances, such performance merits a proportionately greater opportunity for profit or fee. Conversely, a poor record in this regard should be reflected in determining what constitutes a fair and reasonable profit or fee.

(d) *Federal Socio-Economic Programs.* This factor, which may apply to special circumstances or particular acquisitions, relates to the extent of contractor successful participation in the Government sponsored programs such as small business, small disadvantaged business, labor surplus programs, and energy conservation efforts. The contractor's policies and procedures which energetically support Government socio-economic programs and achieves successful results should be given positive consideration. Conversely, failure or unwillingness on the part of the contractor to support Government socio-economic programs should be viewed as evidence of poor performance for the purpose of establishing a profit objective.

(e) *Special Situations.* —

(1) *Inventive and Developmental Contributions.* The extent and nature of contractor-initiated and financed independent development should be considered in developing the profit objective. The importance of the development in furthering the missions of the Department, the demonstrable initiative in determining the need and application of the development, the extent of the contractor's cost risk, and whether the development cost was recovered directly or indirectly from Government sources should be weighed.

(2) *Unusual Pricing Agreements.* Occasionally, unusual contract pricing arrangements are made with the contractor wherein it agrees to participate in the sharing of contract cost or agrees to accept a lower profit or fee for changes or modifications within

a prescribed dollar value. In such circumstances, the contractor should receive favorable consideration in developing the profit objective.

(3) This factor need not be limited to situations which only increase profit/fee levels. A negative consideration may be appropriate when the contractor is expected to obtain spin-off benefits as a direct result of the contract (e.g., products with commercial application).

§ 14-3.808-7 Facilities capital cost of money.

When facilities capital cost of money (cost of capital committed to facilities) is included as an item of cost in the contractor's proposal, a reduction in the profit objective shall be made in an amount equal to the amount of facilities capital cost of money allowed in accordance with FPR § 1-15.205-51. If the contractor does not propose this cost, a provision must be inserted in the contract that facilities capital cost is not an allowable cost.

3. Section 14-3.809 is revised to read as follows:

§ 14-3.809 Contract audit as a pricing aid.

The Assistant Inspector General for Auditing, Office of Inspector General, is responsible for providing audit reports on contract price proposals and other audit services required by FPR § 1-3.809 in accordance with Part 360, Chapter 3.7 of the Departmental Manual (360 DM 3.7).

PART 14-4—SPECIAL TYPES AND METHODS OF PROCUREMENT

1. The Table of Contents for Part 14-4 is amended by adding new § 14-4.1006-2, and removing "Subpart 14-4.51—Research and Development," §§ 14-4.5101 through 14-4.5101-3, and § 14-4.5207 to read as follows:

Subpart 14-4.10—Architect-Engineer Services

Sec.
* * * * *
14-4.1006-2 Procedure.
* * * * *

Subpart 14-4.51 [Removed]

Subpart 14-4.52 Appraisal Services (Real Property)

* * * * *
14-4.5207 [Removed]

Subpart 14-4.10—Architect-Engineer Services

2. Section 14-4.1004-3 is revised to read as follows:

§ 14-4.1004-3 Evaluation criteria.

In addition to the criteria listed under FPR § 1-4.1004-3 for use in evaluating

architect-engineer firms, the following additional criteria shall be applied when applicable to a particular procurement:

(a) Computer capability and expertise (where computer use is required.)

(b) Adequacy of facilities for performance of the work including those necessary to provide specialized services that may be required.

(c) Volume and nature of present workload.

(d) Experience and qualifications of proposed key personnel including specialized technical skills, project coordination and management skills, and experience in working together as a team.

(e) Availability of additional contractor personnel or consultants to support expansion or acceleration of the project.

(f) Other specific criterion as may be required.

3. Section 14-4.1006-1 is revised and new § 14-4.1006-2 is added to read as follows:

§ 14-4.1006 Limitation on contracting with architect-engineer firms for construction work.

§ 14-4.1006-1 Policy.

As required by FPR §§ 1-4.1006-1 and 1-18.112, no contract may be awarded for construction of a project to the firm, parent firm, subsidiaries or affiliates that provided architect-engineer services for the project without the written approval of the Assistant Secretary—Policy, Budget, and Administration.

§ 14-4.1006-2 Procedure.

Architect-engineer firms selected for negotiation of a contract for architect-engineer services shall be informed of the policy set forth in IPR § 14-4.1006-1 in accordance with the procedure under FPR § 1-4.1006-2. This policy shall be incorporated into the terms and conditions of the contract.

4. Section 14-4.1050 is revised to read as follows:

§ 14-4.1050 Use of designated personnel.

The contract for architect-engineer services shall include a "Key Personnel" clause in accordance with IPR § 14-16.703.

Subpart 14-4.51 [Removed]

5. Subpart 14-4.51 (§§ 14-4.5101 through 14-4.5101-3) is removed in its entirety.

Subpart 14-4.52—Appraisal Services (Real Property)

6. Section 14-4.5207 is removed and §§ 14-4.5206 and 14-4.5208 are revised to read as follows:

§ 14-4.5206 Qualifications requirements for appraisers.

If it is anticipated that a real property appraisal made under a contract may be subject to court action, a prospective contractor must be recognized as a qualified appraiser in the file maintained by the Land and Natural Resources Division, U.S. Department of Justice. This requirement shall be treated as a special standard of prospective contractor responsibility in accordance with FPR § 1-1.1203-3.

§ 14-4.5207 [Removed]

§ 14-4.5208 Appraisal standards.

All real property appraisals made under a contract shall conform to the requirements of the Interagency Land Acquisition Conference publication entitled "Uniform Appraisal Standards for Federal Land Acquisitions," published by the Government Printing Office. This standard shall be made a part of all solicitations and resulting contracts for real property appraisal services.

PART 14-6—[Removed]

1. The Table of Contents for Part 14-6 is removed.

2. Part 14-6 is removed in its entirety.

PART 14-7—CONTRACT CLAUSES

1. The Table of Contents for Part 14-7 is amended to remove §§ 14-7.150-2, 14-7.150-4, 14-7.150-5, 14-7.203, 14-7.203-15, 14-7.403, 14-7.403-25, 14-7.650-1, 14-7.650-2, 14-7.650-3, 14-7.650-8, and 14-7.650-9; add new §§ 14-7.150-6, 14-7.250, 14-7.250-1, Subpart 14-7.3, §§ 14-7.350, 14-7.350-1, 14-7.450, 14-7.450-1, 14-7.650-10, and 14-7.650-11, and change the caption for § 14-7.5001 as follows:

Subpart 14-7.1—Fixed Price Supply Contracts

Sec.
* * * * *
14-7.150-2 [Removed]
* * * * *
14-7.150-4 [Removed]
14-7.150-5 [Removed]
14-7.150-6 Release of claims.

Subpart 14-7.2—Cost Reimbursement Type Supply Contracts

14-7.203 [Removed]
14-7.203-15 [Removed]
* * * * *

14-7.250 Additional Interior contract clauses.

14-7.250-1 Release of claims.

Subpart 14-7.3—Fixed Price Research and Development Contracts

14-7.350 Additional Interior contract clauses.

14-7.350-1 Release of claims.

Subpart 14-7.4—Cost Reimbursement Type Research and Development Contracts

14-7.403 [Removed]

14-7.403-25 [Removed]

14-7.450 Additional Interior contract clauses.

14-7.450-1 Release of claims.

Subpart 14-7.6—Fixed Price Construction Contracts

14-7.650-1 [Removed]

14-7.650-2 [Removed]

14-7.650-3 [Removed]

14-7.650-8 [Removed]

14-7.650-9 [Removed]

14-7.650-10 Prohibition against use of lead-based paint.

14-7.650-11 Release of claims.

Subpart 14-7.50—Special Contract Clauses

14-7.5001 Paperwork Reduction Act of 1980.

Subpart 14-7.1—Fixed Price Supply Contracts

§§ 14-7.150-2, 14-7.150-4, and 14-7.150-5 [Removed]

1. Sections 14-7.150-2, 14-7.150-4 and 14-7.150-5 are removed.

2. Section 14-7.150-3 is revised and new § 14-7.150-6 is added to read as follows:

§ 14-7.150 Additional Interior contract clauses.

§ 14-7.150-3 Examination of records.

Insert the clause set forth in IPR § 14-63.104 as prescribed in IPR § 14-63.103(b).

§ 14-7.150-6 Release of claims.

The clause set forth in IPR § 14-1.350 shall be used as prescribed therein.

Subpart 14-7.2—Cost-Reimbursement Type Supply Contracts

§§ 14-7.203 and 14-7.203-15 [Removed]

3. Sections 14-7.203 and 14-7.203-15 are removed.

4. Section 14-7.204-5 is revised to read as follows:

§ 14-7.204 Additional clauses.

§ 14-7.204-5 Insurance-liability to third parties.

Except for those contracts listed in IPR § 14-17.150, subparagraph (c)(2) of the clause set forth in FPR § 1-7.204-5 shall be changed to read "subject to the 'Limitation of Cost' or 'Limitation of Funds' clause * * *"

5. New §§ 14-7.250 and 14-7.250-1 are added to read as follows:

§ 14-7.250 Additional Interior contract clauses.

§ 14-7.250-1 Release of claims.

The clause set forth in IPR § 14-1.350 shall be used as prescribed therein.

Subpart 14-7.3—Fixed-Price Research and Development Contracts

6. A new Subpart 14-7.3 and §§ 14-7.350 and 14-7.350-1 are added as follows:

Subpart 14-7.3—Fixed-Price Research and Development Contracts

§ 14-7.350 Additional Interior contract clauses.

§ 14-7.350-1 Release of claims.

The clause set forth in IPR § 14-1.350 shall be used as prescribed therein.

Subpart 14-7.4—Cost Reimbursement Type Research and Development Contracts

§§ 14-7.403 and 14-7.403-25 [Removed]

7. Sections 14-7.403 and 14-7.403-25 are removed.

8. Section 14-7.404-9 is revised to read as follows:

§ 14-7.404 Additional clauses.

§ 14-7.404-9 Insurance-liability to third parties.

Insert the modified clause set forth under IPR § 14-7.204-5 under the conditions prescribed therein.

9. New §§ 14-7.450 and 14-7.450-1 are added to read as follows:

§ 14-7.450 Additional Interior contract clauses.

§ 14-7.450-1 Release of claims.

The clause set forth in IPR § 14-1.350 shall be used as prescribed therein.

Subpart 14-7.6—Fixed Price Construction Contracts

§§ 14-7.650-1, 14-7.650-2, 14-7.650-3, 14-7.650-8, and 14-7.650-9 [Removed]

10. Sections 14-7.650-1, 14-7.650-2,

14-7.650-3, 14-7.650-8 and 14-7.650-9 are removed.

11. Section 14-7.650-5 is amended by removing paragraphs (c), (d) and (e) to read as follows:

§ 14-7.650 Additional Interior contract clauses.

§ 14-7.650-5 Local taxes.

(c) [Removed]

(d) [Removed]

(e) [Removed]

12. New § 14-7.650-10 is added as follows:

§ 14-7.650-10 Prohibition against use of lead-based paint.

Insert the clause set forth in IPR § 14-18.150 under the conditions prescribed therein.

13. New § 14-7.650-11 is added to read as follows:

§ 14-7.650-11 Release of claims.

The clause set forth in IPR § 14-1.350 shall be used as prescribed therein.

Subpart 14-7.50—Special Contract Clauses.

14. The caption and contents of § 14-7.5001 are revised to read as follows:

§ 14-7.5001 Paperwork Reduction Act of 1980.

Insert the clause set forth in IPR § 14-1.351 under the conditions prescribed therein.

PART 14-9—PATENTS, DATA, AND COPYRIGHTS

1. A Table of Contents is established for new Part 14-9, and §§ 14-9.107 and 14-9.107-3 as follows:

PART 14-9—PATENTS, DATA, AND COPYRIGHTS

Subpart 14-9.1—Patents

Sec.

14-9.107 Patent rights under contracts for research and development.

14-9.107-3 Policy.

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c), 5 U.S.C. 301.

2. New Part 14-9, Subpart 14-9.1 and §§ 14-9.107 and 14-9.107-3 are added to read as follows:

PART 14-9—PATENTS, DATA, AND COPYRIGHTS**Subpart 14-9.1—Patents**

§ 14-7.107 Patent rights under contracts for research and development.

§ 14-7.107-3 Policy.

It is the policy of the Department of the Interior to adopt, without modification, the provisions of OMB Bulletin No. 81-22 dated June 30, 1981, and any further implementation of Pub. L. 96-517 under FPR Subpart 1-9.1.

PART 14-10—BONDS AND INSURANCE

1. The Table of Contents for Part 14-10 is amended by removing "Subpart 14-10.1—Bonds", §§ 14-10.109 and 14-10.109-50; redesignating § 14-10.450 as § 14-10.401 and changing its caption, and redesignating § 10.451 as § 10-10.401-50 and changing its caption to read as follows:

Subpart 14-10.1 [Removed]

Sec.

14-10.109 [Removed]

14-10.109-50 [Removed]

Subpart 14-10.4—Insurance Under Fixed-Price Contracts

14-10.401 Policy.

14-10.401-50 Insurance requirements for aircraft services contracts.

14-10.450 [Removed]

14-10.451 [Removed]

Subpart 14-10.1 [Removed]

2. Subpart 14-10.1 (§§ 14-10.109 and 14-10.109-50) is removed in its entirety.

Subpart 14-10.4—Insurance Under Fixed-Price Contracts

3. Section 14-10.450 is redesignated as § 14-10.401, recaptioned, and paragraph (a) is revised to read as follows:

Subpart 14-10.4—Insurance Under Fixed-Price Contracts

§ 14-10.401 Policy.

(a) It is the policy of the Department to insure its own risks only when such action is in the best interest of the Government. Circumstances where insurance may be required are listed under FPR §§ 1-10.301 and 1-10.401. In these situations, the clause set forth in (b) below shall be used.

4. Section 14-10.451 is redesignated as § 14-10.401-50, recaptioned, and revised to read as follows:

§ 14-10.401-50 Insurance requirements for aircraft services contracts.

(a) Policy. It is the policy of the Department to establish minimum

insurance requirements for certain types of aircraft services contracts in order to protect the Government and its contractors. These requirements are contained in the clauses set forth under (c) below and are in accordance with FPR § 1-10.301.

(b) *Applicability.* The clauses prescribed by this section are applicable to all contracts involving use of aircraft with contractor or Government-furnished pilot except for one-time charters when the Government exposure is minimal and time limitations are present.

(c) *Clauses.* (1) The following clause shall be inserted in all contracts for operation of aircraft with contractor-furnished pilot:

Risk and Indemnities

The Contractor hereby agrees to indemnify and hold harmless the Government, its officers and employees from and against all claims, demands, damages, liabilities, losses, suits and judgments (including all costs and expenses incident thereto) which may be suffered by, accrue against, be charged to or recoverable from the Government, its officers and employees by reason of injury to or death of any person other than officers, agents, or employees of the Government or by reason of damage to property of others of whatsoever kind (other than the property of the Government, its officers, agents or employees) arising out of the operation of the aircraft. In the event the Contractor holds or obtains insurance in support of this covenant, a Certificate of Insurance shall be delivered to the Contracting Officer.

[End of Clause]

(2) For contracts involving the use of aircraft with Government-furnished pilot where the Government does not have a property interest, insert the following clause:

Liability for Loss or Damage

(a) The Contractor shall indemnify and hold the Government harmless from any and all loss or damage to the aircraft furnished under this contract except as provided in paragraph (d) below. For the purpose of fulfilling its obligation under this clause, the Contractor shall procure and maintain during the term of this contract, and any extension thereof, hull insurance acceptable to the Contracting Officer. The Contractor's insurance coverage shall apply to pilots furnished by the Government who operate the aircraft. The contractor may request a list of Government pilots by name and qualification who are potential pilots.

(b) Prior to the commencement of work hereunder, the Contractor shall furnish to the Contracting Officer a copy of the insurance policy or policies or a certificate of insurance issued by the underwriter(s) showing that the coverage required by this clause has been obtained.

(c) Each policy or certificate evidencing the insurance shall contain an endorsement which provides that the insurance company

will notify the Contracting Officer 30 days prior to the effective date of any cancellation or termination of any policy or certificate or any modification of a policy or certificate which adversely affects the interests of the Government in such insurance. The notice shall be sent by registered mail and shall identify this contract, the name and address of the contracting office, the policy, and the insured.

(d) If the aircraft is damaged or destroyed while in the custody and control of the Government, the Government will reimburse the Contractor for the deductible stipulated in the insurance coverage (if any) as follows:

(1) In-Motion Accidents—Up to 5% of the current insured value of the aircraft stated in the policy, or \$10,000.00, whichever is less.

(2) Not In-Motion Accidents—Up to \$250.00 per accident. Such reimbursement shall not be made, however, for loss or damage to the aircraft resulting from (1) normal wear and tear, (2) negligence or fault in maintenance of the aircraft by the Contractor, or (3) a defect in construction of the aircraft or component thereof.

(e) If damage to the aircraft is established to be the fault of the Government, rental payments to the Contractor during the repair period will be made as set forth elsewhere in this contract. The Government may, at its option, make necessary repairs or return the aircraft to the Contractor for repair. In the event the aircraft is lost, destroyed, or damaged so extensively as to be beyond repair, no rental payment will be made to the Contractor thereafter.

(f) Any failure to agree as to the responsibility of the Government or the Contractor under this clause shall, after a final finding and determination by the Contracting Officer, be considered a dispute within the meaning of the "Disputes" clause of this contract.

[End of Clause]

(3) For contracts involving the use of aircraft with Government-furnished pilot where the Government has a property interest (e.g., lease with purchase option) insert the following clause:

Liability for Loss or Damage (Property Interest)

(a) The Government assumes all risk and liability for damage to or loss of the aircraft for the term of this contract, while the aircraft is in the Government's possession, except for (1) normal wear and tear to the aircraft, or (2) loss which occurs as a result of negligence or fault in maintenance of the aircraft by the contractor, or (3) loss resulting from a latent defect in the construction of the aircraft or a component thereof.

(b) In the event of damage to the aircraft, the Government may, at its option, make the necessary repairs with its own facilities, or by contract, or pay the Contractor the reasonable cost of repair of the aircraft. If damage to the aircraft is established to be the fault of the Government, rental payments to the Contractor during the repair period will be made as set forth elsewhere in this contract.

(c) In the event the aircraft is lost, destroyed, or damaged so extensively as to be beyond repair, no rental payment will be made to the Contractor thereafter, but the Government will pay to the contractor a sum equal to the fair market value of the aircraft just prior to such loss, destruction, or extensive damage, less the salvage value of the aircraft.

(d) The Contractor certifies that the contract price does not include any cost attributable to insurance or to any reserved fund it has established to protect its interests in or use of the aircraft, regardless of whether or not the insurance coverage applies for the period during which the Government has possession of the aircraft. If, in the event of loss or damage to the aircraft, the Contractor receives compensation for such loss or damage, in any form, from any source, the amount of such compensation shall be credited to the Government in determining the amount of the Government's liability under this clause; except that this shall not apply to proceeds of insurance received solely as an advance of insurance pending determination of Government liability, or for an increment of value of the aircraft beyond the value for which the Government is responsible.

(e) In the event of loss or damage, the Government shall be subrogated to all rights of recovery by the Contractor against third parties for such loss or damage and such rights shall be immediately assigned to the Government. Except as the Contracting Officer may permit in writing, the Contractor shall neither release nor discharge any third party from liability for such loss or damage nor otherwise compromise or adversely affect the Government's subrogation or other rights hereunder. The contractor shall cooperate with the Government in any suit or action undertaken by the Government against any such third party.

(f) Any failure to agree as to the responsibility of the Government or the Contractor under this clause shall, after a final finding and determination by the Contracting Office, be considered a dispute within the meaning of the "Disputes" clause of this contract.

[End of clause]

PART 14-16—PROCUREMENT FORMS

1. The Table of Contents for Part 14-16 is amended by adding a new Subpart 14-16.7 and § 14-16.703 as follows:

Subpart 14-16.7—Forms for Negotiated Architect-Engineer Contracts

Sec.

14-16.703 Terms, conditions, and provisions.

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c), 5 U.S.C. 301.

2. Subpart 14-16.7 and § 14-16.703 are added to read as follows:

Subpart 14-16.7—Forms for Negotiated Architect-Engineer Contracts

Subpart 14-16.703 Terms, conditions and provisions.

All contracts for architect-engineer services shall contain the "Key Personnel" clause prescribed under FPR § 1-7.304-6.

PART 14-17—EXTRAORDINARY CONTRACTUAL ACTIONS TO FACILITATE THE NATIONAL DEFENSE

1. A Table of Contents is established for new Part 14-17, Subpart 14-17.1 and §§ 14-17.101 and 14-17.150 to read as follows:

Subpart 14-17.1—General

Sec.

14-17.101 Authority.

14-17.150 Policy.

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c), 5 U.S.C. 301.

2. Part 14-17 and Subpart 14-17.1 and §§ 14-17.101 and 14-17.150 are added as follows:

PART 14-17—EXTRAORDINARY CONTRACTUAL ACTIONS TO FACILITATE THE NATIONAL DEFENSE

Subpart 14-17.1—General

§ 14-17.101 Authority.

The Assistant Secretary—Policy, Budget and Administration must approve in advance any actions taken pursuant to FPR § 1-17.103. The Secretary must approve any provision for the Government to indemnify a contractor beyond the amount of the contract for liability to third persons as provided under Executive Order 10789, as amended. Approval of such an indemnification provision must be obtained prior to issuance of the solicitation.

§ 14-17.150 Policy.

It is the policy of the Department of the Interior to include the indemnification provision set forth in FPR § 1-7.204-5 only in contracts which facilitate the national defense and are for products or services which entail risks that are unusually hazardous or nuclear in nature. For all other contracts requiring insurance, the clause set forth under FPR § 1-7.204-5 must be modified as prescribed in IPR § 14-7.204-5.

PART 14-18—PROCUREMENT OF CONSTRUCTION

Subpart 14-18.6—Buy American Act

Section 14-18.604 is revised to read as follows:

§ 14-18.604 Invitation provision.

The provision set forth under FPR § 1-18.604 shall be used in all solicitations for affected construction work (except for contracts executed on Standard Form 19) with the following modifications:

(a) At the end of paragraph (a) of the provision, list the excepted articles, materials, and supplies set forth under IPR § 14-6.105.

(b) At the end of paragraph (b)(2)(i) of the provision, add the following:

ADDITIONAL NONDOMESTIC CONSTRUCTION MATERIALS COST COMPARISON

Identification of material	Quantity	Cost (dollars ¹)
Item 1:		
Nondomestic materials		
Comparable domestic material		
Item 2:		
Nondomestic material		
Comparable domestic material		
Totals:		

¹Delivered to construction site.

(c) Add the following statement to the end of paragraph (b)(3): "However, unless the bidder/offeror specifically states that alternate bid or proposal prices are being submitted for specific items of the bid schedule (based on prices listed for comparable domestic materials), the bid or proposal will be evaluated only on the basis of nondomestic construction materials."

PART 14-19—TRANSPORTATION

Subpart 14-19.1—General

Section 14-19.108-50 is amended by revising paragraph (a), removing its paragraph designation, and removing paragraphs (b) and (c) to read as follows:

§ 14-19.108 Ocean transportation.

§ 14-19.108-50 Contractor compliance.

Concurrent with the award of any contract involving shipment by ocean vessel from or to a foreign country, the contracting officer shall formally notify the contractor of the specific requirements of the "Use of U.S. Flag Commercial Vessels" clause set forth under FPR § 1-19.108-2. The notification shall include a statement that failure to comply with the provisions of this clause may result in a determination of

nonresponsibility on future Government procurement requirements.

PART 14-26—CONTRACT MODIFICATIONS

Subpart 14-26.4—Novation and Change of Name Agreements

Section 14-26.402 is amended by removing its paragraph designation and revising the introductory paragraph to read as follows:

§ 14-26.402 Agreement to recognize a successor in interest.

For protection of Government rights in accrual of inventions, patents and data, the novation agreement form set forth under FPR § 1-26.402(e) shall be amended by adding the following item 10 to the "Now THEREFORE" section of the agreement:

PART 14-30 CONTRACT FINANCING

Subpart 14-30.4—Advance Payments

Sections 14-40.414 and 14-30.414 (a) and (b) are revised to read as follows:

§ 14-30.414 Agreement for special bank account and contract provisions.

§ 14-30.411-2 Contract provisions for advance payments.

(a) For contracts and modifications where a special bank account agreement is not required for advance payments (see FPR § 1-30.413), the contract provision under FPR § 1-30.414-2 shall be used as modified by (c) below.

(b) For contracts and modifications using the letter of credit method of financing (see FPR § 1-30.408-1), the contract provision under FPR § 1-30.414-2 shall be used as modified by (c) below.

PART 14-63—AUDIT

Subpart 14-63.1—Audit of Contractor's Records

1. The Table of Contents for Part 14-63 is amended by changing the caption for § 14-63.104 and removing §§ 14-63.104-1, 14-63.104-2, and 14-63.104-3 to read as follows:

Subpart 14-63.1—Audit of Contractor's records

Sec.

14-63.104 Clause.

14-63.104-1 [Removed]

14-63.104-2 [Removed]

14-63.104-3 [Removed]

2. Section 14-63.101 is revised to read as follows:

§ 14-63.101 Audit responsibility

The Office of Inspector General conducts or arranges for audits (i.e., examinations) of contractor's records to the extent that such audits are required or allowed by law, regulation or sound business judgement. Such audits include the conduct of periodic or requested audits of contractors as determined necessary or advisable by the Inspector General and may be influenced by such factors as the financial condition, integrity, and reliability of the contractor; prior audit experience; adequacy of the accounting system; and the amount of unaudited claims. The audits may also include reviews of cost or price data for contractor's proposal for negotiated contracts (see FPR § 1-3.809).

3. Section 14-63.103 is revised to read as follows:

§ 14-63.103 Requirements.

(a) A preaward audit of proposals shall be made as required by FPR § 1-3.809.

(1) The preaward audit shall not be waived without proper written justification (See FPR § 1-3.809(b)(1)(i)).

(2) Requests for preaward audit along with pertinent documents shall be submitted to the Office of Inspector General. Except under unusual circumstances, at least 30 days should be allowed for the review and evaluation of contractor's proposals.

(b) All awards of noncompetitive contracts which exceed \$25,000 shall include the "Examination of Records" clause set forth in IPR § 14-63.104.

(c) In some contracts it may be appropriate to emphasize the scope or extent of an audit, such as (1) the use or disposition of Government-furnished property or (2) variable or other special features of a contract (e.g., price escalation and compliance with the price warranty or price reduction clauses). In such cases, the contract clause in IPR § 14-63.104 may be appropriately modified with the written concurrence of the Office of Inspector General.

(d) Use of the clause set forth in IPR § 14-63.104 (whether or not modified) does not negate the required use of the "Examination of Records" clause prescribed in FPR § 1-3.814-2(c) or the "Audit" clause prescribed in FPR § 1-3.814-2(a).

4. Section 14-63.104 is revised to read as follows:

§ 14-63.104 Clause.

Insert the following clause under the conditions prescribed in IPR § 14-63.103(b):

Examination of Records

Any Contractor receiving Federal funds agrees that the Secretary of the Interior, the Inspector General, or any of their duly authorized representatives shall, until the expiration of three years after final payment under this contract or the time periods for the particular records specified in Part 1-20 of the Federal Procurement Regulations (41 CFR Part 1-20), whichever expires earlier, have access to, and the right to examine, any books, documents, papers and records of the Contractor involving transactions related to this contract or compliance with any clauses thereunder. The Contractor further agrees to include this provision in all contractual agreements with subcontractors.

[End of Clause]

§§ 14-63.104-1, 14-63.104-2 and 14-63.104-3 [Removed]

5. Sections 14-63.104-1, 14-63.104-2 and 14-63.104-3 are removed.

[FR Doc. 81-31747 Filed 11-3-81; 8:45 am]

BILLING CODE 4310-10-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 81-705; FCC 81-470]

Amendment To Eliminate the Requirement That Licensees Retain Letters Received From the Public

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Section 73.1202 of the Commission's Rules requires all commercial broadcast licensees to retain a disclosure file of letters received from the public. The Commission, acting on its own motion, seeks comments concerning the need for this requirement, and proposes to eliminate it if adequate justification for its retention is not shown.

DATES: Comments must be filed on or before December 7, 1981, and reply comments on or before December 22, 1981.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Israel Teitelbaum, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of the Commission's Rules, § 73.1202, to Eliminate the Requirement that

Licensees Retain Letters Received From the Public.

Notice of Proposed Rule Making

Adopted: October 1, 1981.

Released: October 27, 1981.

The Commission's Rules require television and radio licensees to maintain a public file of letters received from the public. 47 CFR 73.3526(a)(7) and 73.1202. Prompted by an informal letter request submitted by Robert M. Light, President, Southern California Broadcasters Association, Inc., we are on our own motion, reviewing the need for this rule and considering its elimination.

2. Light's request, dated June 22, 1981, notes that our actions in the radio deregulation proceeding under which commercial radio licensees are no longer required to keep logs would also support elimination of the less important letter file, at least for radio. He states that "as this is certainly an added burden of extra paperwork and record-keeping, if there is no compelling public interest involved, I earnestly request that the Commission re-examine this regulation."

3. The Commission adopted this letter retention requirement in 1973 * * * to permit an interested member of the public to better determine the nature of community feedback being received by the licensee and to have a better indication of the extent to which his opinions regarding community problems and needs and/or the licensee's broadcast operation might be shared by other members of the community.

Broadcast License Renewals, 43 F.C.C. 2d 1, 17. We also observed that in some instances, as for example, in connection with our review of a petition to deny, it may be helpful for us to have a source for review of a station's response to community feedback. *Id.*

4. This retention requirement was instituted for radio on an experimental basis. In adopting this rule we stated that "At sometime, probably about one year after the retention requirement has taken effect, we will * * * evaluate the usefulness of the requirement as it pertains to radio, * * *" to determine whether it should be continued, modified or eliminated. *Id.* This review was never undertaken.

5. There is no significant evidence demonstrating that the public has benefitted from this requirement. We have not made significant use of the letter file in connection with petitions to deny, or for any other purpose.

Therefore, in the absence of a showing of significant public benefit, we propose to eliminate this requirement and seek comment on this proposal. Those arguing in favor of preserving this requirement should demonstrate that current benefits will flow from its retention. In this connection we note, that it will not be enough, to argue that this retention requirement imposes little burden upon the licensee or may be useful at some time in the future. These arguments may or may not be true. A mandate has issued that all agencies review the paperwork burdens that they impose on the public. See 44 U.S.C. 3506 and 94 Stat. 2812, 2817. We are reviewing all requirements large and small in the belief that elimination of many unnecessary small burdens can provide significant relief.

Regulatory Flexibility Act Initial Analysis

6. Elimination of the letter retention requirement is proposed to reduce a burden imposed on all of our approximately 10,000 radio and television licensees. This action, as proposed, is taken consistent with the Regulatory Flexibility Act requirement to review every rule that significantly affects small entities. The alternatives available are elimination or retention of the rule, as well as modification of the length of the retention requirement (now 3 years).

7. For purposes of this non-restricted notice and comment rule making proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts a Notice of Proposed Rule Making until the time a public notice is issued stating that a substantial disposition of the matter is to be considered at a forthcoming meeting or until a final order disposing of the matter is adopted by the Commission whichever is earlier. In general, an *ex parte* presentation is any written or oral communication (other than formal written comments, pleadings and formal oral arguments) between a person outside the Commission and a Commissioner or a member of the Commission's staff which addresses the merits of the proceeding. Any person who submits a written *ex parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who makes an oral *ex parte* presentation addressing matters not fully covered in any previously-filed written comments for the proceeding

must prepare a written summary of that presentation; on the day of oral presentation, that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy of the Commission official receiving the oral presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served, and must also state by docket number the proceeding to which it relates. See generally, Section 1.1201 of the Commission's Rules.

8. Authority for the issuance of this Notice is contained in Sections 4(i) and 303(r) of the Communications Act of 1934, as amended. Pursuant to procedures set out in § 1.415 of the Commission's Rules, interested parties may file comments on or before December 7, 1981, and reply comments on or before December 22, 1981. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Report and Order.

9. In accordance with the provisions of § 1.419 of the Rules, formal participants shall file an original and 5 copies of their comments and other materials. Participants wishing each Commissioner to have a personal copy of their comments should file an original and 11 copies. Members of the general public who wish to express their interest by participating informally may do so by submitting 1 copy. All comments are given the same consideration, regardless of the number of copies submitted. All documents will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters, Room 239, 1919 M Street, N.W., Washington, D.C. 20554.

10. For further information concerning this proceeding, contact Israel Teitelbaum, Broadcast Bureau, (202) 632-7792.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 81-31886 Filed 11-3-81; 8:45 am]

BILLING CODE 6712-01-M

Notices

Federal Register

Vol. 46, No. 213

Wednesday, November 4, 1981

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.

CIVIL AERONAUTICS BOARD

Hawkins and Powers Aviation, Inc.; Application for an All-Cargo Air Service Certificate

October 29, 1981.

In accordance with Part 291 (14 CFR Part 291) of the Board's Economic Regulations (effective November 8, 1978), Notice is hereby given that the Civil Aeronautics Board has received an application, Docket 40061, from Hawkins and Powers Aviation, Inc., P.O. Box 391, Greybull, WY 82426, for an all-cargo air service certificate to provide domestic cargo transportation.

Under the provisions of § 291.12(c) of Part 291, interested persons may file an answer in opposition to this application on or before November 25, 1981. An executed original and six copies of such answer shall be addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. It shall set forth in detail the reasons for the position taken and must relate to the fitness, willingness, or ability of the applicant to provide all-cargo air service or to comply with the Act or the Board's orders and regulations. The answer shall be served upon the applicant and state the date of such service.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 81-32009 Filed 11-3-81; 8:45 am]
BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

Foreign Availability Subcommittee of the Computer Systems Technical Advisory Committee; Open Meeting

AGENCY: International Trade
Administration, Commerce.

ACTION: Notice.

SUMMARY: The Computer Systems Technical Advisory Committee was initially established on January 3, 1973, and rechartered on September 17, 1981 in accordance with the Export

Administration Act of 1979 and the Federal Advisory Committee Act. The Subcommittee was approved for continuation on October 5, 1981 pursuant to the charter of the Committee. The Foreign Availability Subcommittee was formed to ascertain if certain kinds of equipment are available in non-COCOM and Communist countries, and if such equipment is available, then to ascertain if it is technically the same or similar to that available elsewhere.

TIME AND PLACE: November 18, 1981, at 1:30 p.m. The meeting will take place at the Main Commerce Building, Conference Room D, 14th Street and Constitution Ave., N.W., Washington, D.C.

AGENDA:

General Session

- (1) Opening remarks by the Subcommittee Chairman.
- (2) Presentation of papers or comments by the public.
- (3) Discussion of the agenda for the remainder of 1981.

PUBLIC PARTICIPATION: The meeting will be open for public observation and a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Subcommittee. Written Statements may be submitted at any time before or after the meeting.

FOR FURTHER INFORMATION OR COPIES OF THE MINUTES CONTACT:

Mrs. Margaret A. 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: September 28, 1981.
Saul Padwo,
Director of Licensing, Office of Export
Administration.

[FR Doc. 81-31914 Filed 11-3-81; 8:45 am]
BILLING CODE 3510-25-M

Water Circulating Pumps, Wet Motor Type, From the United Kingdom; Preliminary Results of Administrative Review of Antidumping Finding

AGENCY: International Trade
Administration, Commerce.

ACTION: Notice of Preliminary Results of
Administrative Review of Antidumping
Finding.

SUMMARY: The Department of
Commerce has conducted an
administrative review of the

antidumping finding on water circulating pumps, wet motor type, from the United Kingdom. The review covers the one known exporter for the period July 1, 1978, through October 14, 1979. The review indicates the existence of *de minimis* dumping margins.

As a result of this review, the Department has preliminarily determined to assess dumping duties equal to the calculated difference between exporter's sales price and foreign market value on each shipment during the period of review.

Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: November 4, 1981.

FOR FURTHER INFORMATION CONTACT:
Brian Kelly or David Chapman, Office of
Compliance, International Trade
Administration, U.S. Department of
Commerce, Washington, D.C. 20230
(202-377-2923/2657).

SUPPLEMENTARY INFORMATION:

Procedural Background

On July 7, 1976, a dumping finding with respect to water circulating pumps, wet motor type, from the United Kingdom was published in the *Federal Register* as Treasury Decision 76-190 (41 FR 27843). On January 1, 1980, the provisions of title I of the Trade Agreements Act of 1979 became effective. Title I replaced the provisions of the Antidumping Act of 1921 ("the 1921 Act") with a new title VII to the Tariff Act of 1930 ("the Tariff Act"). On January 2, 1980, the authority for administering the antidumping duty law was transferred from the Department of the Treasury to the Department of Commerce ("the Department").

The Treasury Department published a tentative revocation of the finding on October 15, 1979 (44 FR 59312), and a final revocation on January 4, 1980 (45 FR 1013-4). However, the period from July 1, 1978, through October 14, 1979, had not been examined by the Treasury Department at the time of final revocation. As required by section 751 of the Tariff Act, the Department has conducted an administrative review of the finding on water circulating pumps, wet motor type, from the United Kingdom for that period. This review completes the examination for all unliquidated entries of this merchandise covered by the finding. The substantive provisions of the 1921 Act and the appropriate Customs Service regulations apply to all unliquidated entries made prior to January 1, 1980.

Scope of the Review

Imports covered by this review are shipments of water circulating pumps, wet motor type, from the United Kingdom, currently classifiable under items 860.9710-860.9756 of the Tariff Schedules of the United States Annotated (TSUSA).

The Department knows of one British firm engaged in the manufacture and export of water circulating pumps, wet motor type, to the United States, the Myson Group, Ltd. This review covers the period July 1, 1978 through October 14, 1979, for that firm.

Exporter's Sales Price

The Department used exporter's sales price, as defined in section 204 of the 1921 Act, since all sales were made to a U.S. firm related to the manufacturer within the meaning of section 207 of the 1921 Act. Exporter's sales price was based on the packed price from the related U.S. firm to the first unrelated purchaser in the United States. Deductions were made for U.S. and foreign inland freight, U.S. duty, brokerage fees, ocean freight, and selling expenses, in accordance with § 153.10 of the Customs Regulations. No other adjustments were claimed or allowed.

Foreign Market Value

In calculating foreign market value, the Department used home market price, as defined in section 205 of the 1921 Act, since the Myson Group, Ltd., sold such or similar merchandise in the United Kingdom in sufficient quantities to provide an adequate basis for comparison. The home market price was adjusted for freight, insurance, discounts, and commissions to unrelated parties as an ESP offset in accordance with § 153.10 of the Customs Regulations. No other adjustments were claimed or allowed.

Preliminary Results of the Review

As a result of our comparison of exporter's sales price to foreign market value we preliminarily determine that a weighted average margin of 0.38% exists for exports by the Myson Group, Ltd., during the period July 1, 1978 through October 14, 1979.

Interested parties may submit written comments on these preliminary results within 30 days of publication of this notice and may request disclosure and/or a hearing within 15 days of the date of publication. Any request for an administrative protective order must be made within 5 days of the date of publication. The Department will publish the final results of the

administrative review including the results of its analysis of any such comments or hearing.

The Department shall determine, and the U.S. Customs Service shall assess, duties on all entries made during the time period involved.

Individual differences between exporter's sales price and foreign market value may vary from the percentages stated above. The Department will issue appraisal instructions separately on the exporter directly to the Customs Service.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

Melinda L. Carmen,

Acting Deputy Assistant Secretary for Import Administration.

October 27, 1981.

[FR Doc. 81-31915 Filed 11-3-81; 8:45 am]

BILLING CODE 3510-25-M

Semiconductor Technical Advisory Committee; Closed Meeting

AGENCY: International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: The Semiconductor Technical Advisory Committee was initially established on January 3, 1973, and rechartered on September 18, 1981 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) technical 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 unilateral and multilateral controls which the United States established or in which it participates including proposed revisions of any such controls.

TIME AND PLACE: December 9, 1981, at 9:00 a.m. The meeting will take place at the Main Commerce Building, Room 6802, 14th Street and Constitution Ave., N.W., Washington, D.C.

The Committee will meet only in Executive Session to discuss matters properly classified under Executive Order 12065, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Administration,

with the concurrence of the delegate of the General Counsel, formally determined on September 29, 1981, 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 meeting should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the meeting will be concerned with matters listed in 5 U.S.C. 552b(c)(1) and are properly classified under Executive Order 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 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: October 29, 1981.

Saul Padwa,

Director of Licensing.

[FR Doc. 81-31983 Filed 11-3-81; 8:45 am]

BILLING CODE 3510-25-M

Switching Subcommittee of the Telecommunications Equipment Technical Advisory Committee; Partially Closed Meeting

AGENCY: International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: The Telecommunications Equipment Technical Advisory Committee was initially established on October 23, 1973, and rechartered on September 17, 1981, in accordance with the Export Administration Act of 1979 and the Federal Advisory Committee Act. The Subcommittee was established on October 5, 1981, pursuant to the charter of the Committee.

The Switching Subcommittee was formed to study computer controlled switching equipment with the goal of making recommendations to the Department of Commerce relating to the appropriate parameters for controlling exports for reasons of national security.

Time and place: November 19, 1981, at 10 a.m. The meeting will take place at the Main Commerce Building, Conference Room A, 14th Street and Constitution Avenue, N.W., Washington, D.C.

Agenda**General Session**

- (1) Opening remarks by the Acting Chairman.
- (2) Presentation of papers or comments by the public.
- (3) Discussion of CCL entry 1505, as it relates to computer controlled switching equipment.
- (4) Industry comments on relevant control parameters for export licensing purposes are requested.

Executive Session

- (5) Discussion of matters properly classified under Executive Order 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 29, 1981, 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 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: October 29, 1981.

Saul Padwo,

Director of Licensing.

[FR Doc. 81-31064 Filed 11-3-81; 8:45 am]

BILLING CODE 3510-25-M

DEPARTMENT OF DEFENSE**Office of the Secretary****Privacy Act of 1974; Notice of System of Records; Changes**

AGENCY: Office of the Secretary of Defense (OSD).

ACTION: Notice of change to system of records notice.

SUMMARY: The Office of the Secretary of Defense proposes to change the system notice for one system of records subject to the Privacy Act of 1974. The specific changes are set forth below.

DATE: This notice shall be changed as proposed without further notice on December 4, 1981, unless comments are received which would result in a contrary determination.

ADDRESS: Send any comments to the System Manager identified in the system notice.

FOR FURTHER INFORMATION CONTACT:

Norma Cook, Privacy Act Officer, ODASD(A), Room 5C315, Pentagon, Washington, D.C. 20301. Telephone: (202) 695-0970.

SUPPLEMENTARY INFORMATION: The Office of the Secretary of Defense (OSD) systems of records notices as prescribed by the Privacy Act have been published in the Federal Register.

FR Doc. 81-897 (46 FR 6427) January 21, 1981
FR Doc. 81-5568 (46 FR 12772) February 18, 1981

FR Doc. 81-6246 (46 FR 14031) February 25, 1981

FR Doc. 81-6491 (46 FR 14154) February 26, 1981

FR Doc. 81-7597 (46 FR 16114) March 11, 1981

FR Doc. 81-8041 (46 FR 16926) March 16, 1981

FR Doc. 81-8127 (46 FR 17074) March 17, 1981

FR Doc. 81-8281 (46 FR 17243) March 18, 1981

FR Doc. 81-8282 (46 FR 17243) March 18, 1981

FR Doc. 81-10201 (46 FR 20260) April 3, 1981

FR Doc. 81-10722 (46 FR 21226) April 9, 1981

FR Doc. 81-11473 (46 FR 22257) April 16, 1981

FR Doc. 81-11765 (46 FR 22632) April 20, 1981

FR Doc. 81-12892 (46 FR 23967) April 29, 1981

FR Doc. 81-13225 (46 FR 24620) May 1, 1981

FR Doc. 81-14226 (46 FR 26365) May 12, 1981

FR Doc. 81-14406 (46 FR 26676) May 14, 1981

FR Doc. 81-14909 (46 FR 27373) May 19, 1981

FR Doc. 81-14975 (46 FR 27373) May 19, 1981

FR Doc. 81-15770 (46 FR 28470) May 27, 1981

FR Doc. 81-17763 (46 FR 31306) June 15, 1981

FR Doc. 81-19042 (46 FR 33074) June 26, 1981

FR Doc. 81-20404 (46 FR 35963) July 13, 1981

FR Doc. 81-21228 (46 FR 37306) July 20, 1981

FR Doc. 81-21498 (46 FR 37751) July 22, 1981

FR Doc. 81-23482 (46 FR 40788) August 12, 1981

FR Doc. 81-25853 (46 FR 44494) September 4, 1981

FR Doc. 81-28992 (46 FR 49177) October 6, 1981

This proposed change is not within the purview of the provisions of 5 U.S.C. 552a(o) of the Act which requires the submission of new or altered system reports.

M. S. Healy,

OSD Federal Register Liaison Officer,

Washington Headquarters Services,

Department of Defense.

October 29, 1981.

DUSDRE 03:

System name:

Office of the Under Secretary of

Defense for Research and Engineering

(OUSDRE), Inventor's File (46 FR 6427, January 21, 1981).

Changes:**Retention and disposal:**

In second line, delete the word "five" and insert: "three".

Contesting record procedures:

In the fifth line, delete "CFR 286b" and insert: "C.F.R., Part 286b".

DUSDRE 03**SYSTEM NAME:**

Office of the Under Secretary of Defense for Research and Engineering (OUSDRE), Inventor's File.

RETENTION AND DISPOSAL:

Retained in active files for a period of three years and then transferred to the Washington National Records Center, Suitland, Maryland 20409.

CONTESTING RECORD PROCEDURES:

The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR Part 286b, and OSD Administrative Instruction No. 81.

[FR Doc. 81-31064 Filed 11-3-81; 8:45 am]

BILLING CODE 3810-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-51323A; TSH-FRL-1976-7]

Certain Chemicals; Premanufacture Notices, Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice corrects the PMN generic name on a premanufacture notice (PMN) as required by section 5(a)(1) of the Toxic Substances Control Act (TSCA).

FOR FURTHER INFORMATION CONTACT:

David Dull, Acting Chief, Notice Review Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-216, 401 M St., SW., Washington, DC 20460 (202-426-2601).

SUPPLEMENTARY INFORMATION: In the Federal Register on October 2, 1981, (46 FR 48754), EPA issued a notice of receipt of a PMN.

In the FR Doc. 81-28711 appearing at page 48754 under "PMN 81-473", first column, the generic name "Oxoarylpolysilylbenzene alkanolic acid ester" is corrected to read "Oxoarylpolysilylbenzene alkyl nitrile."

Dated: October 28, 1981.

Woodson W. Bercaw,

Acting Director, Management Support Division.

[FR Doc. 81-31965 Filed 11-3-81; 8:45 am]

BILLING CODE 6560-31-M

[OPTS-51341; TSH-FRL-1977-4]

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. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of interim policy published in the Federal Register of May 15, 1979 (44 FR 28558) and November 7, 1980 (45 FR 74378). This notice announces receipt of four PMNs and provides a summary of each.

DATE: Written comments by: PMN 81-543, 81-544, 81-545, and 81-546—December 25, 1981.

ADDRESS: Written comments, identified by the document control number "[OPTS-51341]" and the specific PMN number should be sent to: Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-409, 401 M St., SW., Washington, DC 20460 (202)-755-5687.

FOR FURTHER INFORMATION CONTACT: David Dull, Acting Chief, Notice Review Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-216, 401 M St., SW., Washington, DC 20460 (202)-426-2601.

SUPPLEMENTARY INFORMATION: The following are summaries of information provided by the manufacturer on the PMNs received by EPA:

PMN 81-543

Close of Review Period. January 24, 1982.

Manufacturer's Identity. Claimed confidential business information. Organization information provided: Annual sales—Over \$500,000,000.

Specify Chemical Identity. 3-hydroxy-1-propanesulfonic acid, monosodium salt.

Use. The manufacturer states that the PMN substance will be used as an intermediate.

PRODUCTION ESTIMATES

	Kilograms per year	
	Minimum	Maximum
1st year	100	400
2nd year	100	400
3rd year	100	400

Physical/Chemical Properties

Melting point—>200° C.

Solubility: water @ 20° C—>10° gm/l.

Toxicity Data. No data were submitted on the PMN substance.

Exposure. The manufacturer states that during manufacture and processing a total of 156 workers may experience dermal and inhalation exposure up to 24 hrs/day, up to 322 days/yr.

Environmental Release/Disposal. The manufacturer states that less than 10 kg/yr will be released to the air, land, and water. Disposal is by publicly owned treatment works (POTW), incineration, landfill or treatment or recovery.

PMN 81-544

Close of Review Period. January 24, 1982.

Manufacturer's Identity. American Color and Chemical Corporation, Mount Vernon Street, Lock Haven, PA 17745.

Specific Chemical Identity. Claimed confidential business information.

Generic name provided:

Benzenesulfonic acid, 4-[[4-[[2-hydroxy-1-naphthalenyl]azo]phenyl] azo]-salt.

Use. The manufacturer states that the PMN substance will be used in nylon and paper.

PRODUCTION ESTIMATES

	Kilograms per year	
	Minimum	Maximum
1st year	1,000	3,000
2nd year	3,000	5,000
3rd year	5,000	7,500

Physical/Chemical Properties

Appearance—Dark red solution.

pH—8.5-10.0.

Toxicity Data

Modified Draize repeated insult patch test in human subjects—Non-irritating and non-sensitizing.

Exposure. The manufacturer states that during manufacture 2 workers may experience dermal exposure 2 hrs/day, 2

days/yr during cleaning of the clarification press.

Environmental Release/Disposal. The manufacturer states that less than 10 kg/yr will be released to the air, land and water. Disposal is to a POTW.

PMN 81-545

Close of Review Period. January 24, 1982.

Manufacturer's Identity. The Upjohn Company, 410 Sackett Point Road, North Haven, CT 06473.

Specific Chemical Identity. N,N'-Isophthaloyl-bis (trimethylene urea).

Use. The manufacturer states that the PMN substance will be used in powder coatings, solvent based coatings, and polyurethanes.

PRODUCTION ESTIMATES

	Kilograms per year	
	Minimum	Maximum
1st year	300	600
2nd year	600	1,200
3rd year	1,200	

Physical/Chemical Properties

Appearance—White, solid.

Melting point—99-102° C.

Solubility: water—Insoluble.

Soluble in CH₂Cl₂, CHCl₃, and polar solvents.

Undergoes ring-opening in presence of an alcohol and a catalyst, slowly at 45° C, increases with increasing temperature. Without catalyst and alcohol, it is stable at 180° C or higher temperature.

Toxicity Data

Acute oral toxicity LD₅₀ (rat)—>5.0 g/kg.

Primary skin irritation (rabbit)—Not a primary skin irritant.

Primary eye irritation (rabbit)—Mildly irritating.

Exposure. The manufacturer states that during manufacture and processing up to 4 workers may experience dermal and inhalation exposure up to 8 hrs/day, up to 30 days/yr during the entering of the intermediate product, the loading and unloading of the drier, and the loading of the chemical to a reactor.

Environmental Release/Disposal. The manufacturer states that less than 10 kg/yr will be released to water. Disposal is to a POTW and approved landfill.

PMN 81-546

Close of Review Period. January 24, 1982.

Manufacturer's Identity. Claimed confidential business information.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Substituted carbopolycyclic polyazo poly-sulfonic acid, salt.

Use. The manufacturer states that the PMN substances will be used as an intermediate.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties. No data were submitted.

Toxicity Data. No data were submitted.

Exposure. The manufacturer states that during manufacture 4 workers may experience dermal exposure 5 hrs/day, 7 days/yr during manual dumping of the filterpress and during repasting of the filtercake.

Environmental Release/Disposal. The manufacturer states that no release to the environment is anticipated. Disposal is by waste treatment facility.

Dated: October 28, 1981.

Woodson W. Bercau,
Acting Director, Management Support
Division.

[FR Doc. 81-31970 Filed 11-3-81; 8:45 am]

BILLING CODE 6560-31-M

[OPP-50510A; PH-FRL-1967-2]

**Dow Chemical Co.; Amendment of
Experimental Use Permit**

AGENCY: Environmental Protection
Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has amended an experimental use permit, No. 464-EUP-63, issued to Dow Chemical Company for use of 200,000 pounds of the nematocide 1,3-dichloropropene applied to soil for post-plant control of nematodes on almonds, cherries, figs, fresh prunes, grapefruits, grapes, lemons, oranges (except Valencia), peaches, plums, and walnuts in California. The amendment adds 8 States to the program.

FOR FURTHER INFORMATION CONTACT: Henry M. Jacoby, Product Manager (PM) 21, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 227, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202 (703-557-1900).

SUPPLEMENTARY INFORMATION: EPA issued a notice that published in the Federal Register of December 23, 1980 (45 FR 84853) pertaining to the issuance of an experimental use permit, No. 464-EUP-63, to Dow Chemical Corporation. Since then, Dow Chemical Corporation has requested that the permit be

amended to add the States of Arizona, Florida, Michigan, New Jersey, New York, Pennsylvania, South Carolina, and Washington. EPA has granted the request. All other conditions of the experimental use program remain the same.

(Sec. 5, Stat. 819, as amended (7 U.S.C. 136))

Dated: October 21, 1981.

Robert V. Brown,

Acting Director, Registration Division, Office
of Pesticide Programs.

[FR Doc. 81-31971 Filed 11-3-81; 8:45 am]

BILLING CODE 6560-32-M

[OPP-50511A; PH-FRL-1976-4]

**FMC Corp.; Amendment of
Experimental Use Permit**

AGENCY: Environmental Protection
Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has amended an experimental use permit, No. 279-EUP-75, to FMC Corporation for use of the insecticide permethrin on corn to evaluate the control of various insects. The amendment adds 399 additional pounds of permethrin, 130 acres, and the States of Delaware, Maryland, Virginia, and Wisconsin to the program.

FOR FURTHER INFORMATION CONTACT:

Franklin D.R. Gee, Product Manager (PM) 17, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 207, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202 (703-557-2690).

SUPPLEMENTARY INFORMATION: EPA issued a notice that was published in the Federal Register of December 9, 1980 (45 FR 81112), pertaining to the renewal of an experimental use permit, No. 279-EUP-75, issued to FMC Corporation. At the request of the company, the permit has been amended. The permit now allows the use of 883 pounds (484 pounds originally authorized) of the insecticide permethrin on corn to evaluate the control of various insects. A total of 740 acres (610 acres originally authorized) are involved. The program is now authorized in the States of Arizona, Colorado, Delaware, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Missouri, Nebraska, New Mexico, Ohio, Oklahoma, Pennsylvania, South Dakota, Tennessee, Texas, Virginia, and Wisconsin. All other conditions of this permit remain the same.

(Sec. 5, Stat. 819, as amended (7 U.S.C. 136))

Dated: October 21, 1981.

Robert V. Brown,

Acting Director, Registration Division, Office
of Pesticide Programs.

[FR Doc. 81-31973 Filed 11-3-81; 8:45 am]

BILLING CODE 6560-32-M

[OPTS-59066A; TSH-FRL-1977-6]

**Pentastitutedbenzopyran;
Approval of Test Marketing Exemption**

AGENCY: Environmental Protection
Agency (EPA).

ACTION: Notice.

SUMMARY: EPA received an application for a test marketing exemption (TM-81-36) under section 5 of the Toxic Substances Control Act (TSCA) on September 18, 1981. Notice of receipt of the application was published in the Federal Register of September 30, 1981 (46 FR 47853). EPA has granted the exemption.

EFFECTIVE DATE: This exemption is effective on October 27, 1981.

FOR FURTHER INFORMATION CONTACT:

George E. Bagley, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-210, 401 M St. SW., Washington, D.C. 20460, (202-426-2601).

SUPPLEMENTARY INFORMATION: Under section 5 of TSCA, anyone who intends to manufacture in, or import into, the United States a new chemical substance for commercial purposes must submit a notice to EPA before manufacture or import begins. A "new" chemical substance is any chemical substance that is not on the Inventory of existing substances compiled by EPA under section 8(b) of TSCA. Section 5(a)(1) requires each premanufacture notice (PMN) to be submitted in accordance with section 5(d) and any applicable requirements of section 5(b). Section 5(d)(1) defines the contents of a PMN and section 5(b) contains additional reporting requirements for certain new chemical substances.

Section 5(h), "Exemptions", contains several provisions for exemptions from some or all of the requirements of section 5. In particular, section 5(h)(1) authorizes EPA, upon application, to exempt persons from any requirements of section (a) or section 5(b), and to permit them to manufacture or process chemical substances for test marketing purposes. To grant an exemption, the Agency must find that the test marketing activities will not present any unreasonable risk of injury to health or the environment. EPA must either approve or deny the application within

45 days of its receipt, and under section 5(h)(6) the Agency must publish a notice of this disposition in the *Federal Register*. If EPA grants a test marketing exemption, it may impose restrictions on the test marketing activities.

On September 18, 1981, EPA received an application for an exemption from the requirements of sections 5(a) and 5(b) of TSCA to manufacture a new chemical substance for test marketing purposes. The application was assigned test marketing exemption number TM-81-36. The manufacturer claimed its identity, the specific chemical identity, and the specific use of the new substance as confidential business information. The generic name of the new substance is pentasubstitutedbenzopyran. A maximum of 1,000 kg will be manufactured and processed for test marketing purposes during a test marketing period not to exceed three months. During manufacture and processing, 15 workers may have dermal and inhalation exposure for a maximum of 2 hours/day for up to five days/year. The average and potential maximum concentrations for these operations are expected to be 0-1 ppm. A notice published in the *Federal Register* of September 30, 1981 (46 FR 47853) announced receipt of this application and requested comment on the appropriateness of granting the exemption. The Agency has not received any comments concerning the application.

EPA has established that the test marketing of the substance described in TM-81-36, under the conditions set out in the application, will not present any unreasonable risk of injury to health or the environment for the reasons explained below. The substance will be manufactured and processed in a closed system. No significant health concerns were identified for the TME substance. Consumer exposure to the new substance is not expected. Testing has shown the substance to be slightly irritating to the skin and eyes, with low potential for skin sensitization. Some significant environmental concerns were identified with regard to aquatic organisms; however, environmental release of the substance will be minimal.

This test marketing exemption is granted based on the facts and information obtained and reviewed, but is subject to all conditions set out in the exemption application and, in particular, those enumerated below.

1. This exemption is granted solely to this manufacturer.

2. The applicant must maintain records of the date(s) of shipment(s) to the customer(s) specified in the

application, and the quantities shipped in each shipment and must make these records available to EPA upon request.

3. Each bill of lading that accompanies a shipment of the substance during the test marketing period must state that the use of the substance is restricted to that described to EPA in the test marketing exemption application.

4. The production volume of the new substance may not exceed the quantity of 1,000 kg described in the test marketing exemption application.

5. The test marketing activity approved in this notice is limited to a period of 3 months commencing on the date of signature of this notice by the Administrator.

6. The number of workers exposed to the new chemical should not exceed that specified in the application and the exposure levels and duration of exposure should not exceed those specified.

The Agency reserves the right to rescind its decision to grant this exemption should any new information come to its attention which casts significant doubt on the Agency's conclusion that the test marketing of this substance under the conditions specified in the application will not present an unreasonable risk of injury to human health or the environment.

Dated: October 27, 1981.

Anne M. Gorsuch,
Administrator.

[FR Doc. 81-31974 Filed 11-3-81; 8:45 am]

BILLING CODE 6560-31-M

[OPP-50558; PH-FRL-1976-3]

Shell Oil Co.; Renewal of Experimental Use Permit

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted an experimental use permit to Shell Oil Company. This permit is 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:

The product manager cited in the experimental use permit at the address below: Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 1921 Jefferson Davis Highway, Arlington, VA 22202.

SUPPLEMENTARY INFORMATION: EPA has issued the following experimental use permit:

201-EUP-58. Shell Oil Company, Suite 200, 1025 Connecticut Avenue, NW., Washington, DC 20036. This experimental use permit allows the use of 80 pounds of the insecticide cyano(3-phenoxyphenyl)methyl-4-chloro-alpha-(1-methylethyl)benzeneacetate on pears to evaluate the control of pear psylla. A total of 80 acres are involved. The program is authorized only in the States of California, Michigan, New York, Oregon, Pennsylvania, and Washington. The permit was previously effective from March 21, 1980 to March 21, 1981. It is now effective from August 21, 1981 to August 21, 1982. A temporary tolerance for residues of the active ingredient in or on pears has been established. (Franklin Gee, PM 17, Rm. 207, CM#2, (703-557-2600)).

Persons wishing to review this experimental use permit are referred to the designated product manager. Inquiries concerning this permit should be directed to the person cited above. It is suggested that interested persons call before visiting the EPA Headquarters Office, so that the appropriate file may be made available for inspection purposes 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: October 21, 1981.

Robert Brown,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 81-31972 Filed 11-3-81; 8:45 am]

BILLING CODE 6560-32-M

[PP 1G2458/T334; PH-FRL-1977-3]

Thidiazuron; Establishment of Temporary Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has established a temporary tolerance for residues of the herbicide thidiazuron (*N*-phenyl-*N'*-1,2,3-thiadiazol-5-ylurea) and its aniline-containing metabolites in or on the raw agricultural commodity cottonseed at 0.4 part per million (ppm).

DATE: This temporary tolerance expires July 1, 1983.

FOR FURTHER INFORMATION CONTACT:

Richard Mountfort, Product Manager (PM) 23, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 237, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202 (703-557-1830).

SUPPLEMENTARY INFORMATION: Nor-Am Agricultural Products, Inc., 350 West Shuman Blvd., Naperville, IL 60566, has requested the establishment of a temporary tolerance for residues of the herbicide thidiazuron (*N*-phenyl-*N*-1,2,3-thiadiazol-5-ylurea) and its aniline-containing metabolites in or on cottonseed at 0.4 ppm.

This temporary tolerance will permit the continued marketing of the above raw agricultural commodity when treated in accordance with the provisions of experimental use permit 2139-EUP-23 which is being issued under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended (92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and all other relevant material were evaluated, and it was determined that establishment of the temporary tolerance will protect the public health. Therefore, the temporary tolerance has been established on the condition that the herbicide be used in accordance with the experimental use permit and with the following provisions:

1. The total amount of the herbicide to be used must not exceed the quantity authorized by the experimental use permit.

2. Nor-Am must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The company must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

This tolerance expires July 1, 1983. Residues not in excess of 0.4 ppm remaining in or on cottonseed after this expiration date will not be considered actionable if the herbicide is legally applied during the term of, and in accordance with, the provisions of the experimental use permit and temporary tolerance. This tolerance may be revoked if the experimental use permit is revoked or if any experience or scientific data with this herbicide indicate that such revocation is necessary to protect the public health.

As required by Executive Order 12291, EPA has determined that this temporary tolerance is not a "Major" rule and therefore does not require a Regulatory Impact Analysis. In addition, the Office of Management and Budget (OMB) has exempted this temporary tolerance from the OMB review requirements of Executive Order 12291, pursuant to section 8(b) of that Order.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1104, 5 U.S.C. 610-612), the Administrator has determined that

regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1981 (46 FR 24950).

(Sec. 408(j), 68 Stat. 516 (21 U.S.C. 346a(j)))

Dated: October 21, 1981.

Robert V. Brown,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 81-31909 Filed 11-3-81; 8:45 am]

BILLING CODE 6560-32-M

[OPP-C30206; PH-FRL-1976-8]

Tuco Products Co.; Application to Conditionally Register A Pesticide Product Containing a New Active Ingredient

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of an application to conditionally register a pesticide product containing an active ingredient not included in any previously registered pesticide product pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended.

DATE: Comment by December 4, 1981.

ADDRESS: Written comments, identified by the document control number [OPP-C30206] and the file symbol, should be submitted to: Richard Mountfort, Product Manager (PM) 23, Registration Division (TX-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW, Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Richard Mountfort (703-557-1830).

SUPPLEMENTARY INFORMATION: EPA received an application as follows to conditionally register a pesticide product containing an active ingredient not included in any previously registered pesticide product pursuant to the provisions of section 3(c)(4) of FIFRA. Notice of receipt of this application does not imply a decision by the Agency on the application.

Application Received

File symbol: 1023-AG.

Applicant: Tuco Products Co., Division of Upjohn Co., 7171 Portage Rd., Kalamazoo, MI 49001.

Product name: COLLEGO TM Selective Postemergent Herbicide Biological Weed Control Agent.

Active ingredient: *Colletotrichum gloeosporioides* f. sp. *aeschyromene* ATCC 20358-33%.

Proposed classification: General use to control the weed northern jointvetch, in rice and soybeans.

Notice of approval or denial of an application to register a pesticide product will be announced in the Federal Register. Except for such material protected by section 10 of FIFRA, the test data and other scientific information deemed relevant to the registration decision may be made available after approval under the provisions of the Freedom of Information Act. The procedure for requesting such data will be given in the Federal Register if an application is approved.

Comments received within the specified time period will be considered before a final decision is made; comments received after the time specified will be considered only to the extent possible without delaying processing of the application.

The label furnished by the applicant, as well as all written comments filed pursuant to this notice, will be available in the product manager's office between 800 a.m. to 4:00 p.m., Monday through Friday, except legal holidays. It is suggested that persons interested in reviewing the application file, telephone the product manager's office to ensure that the file is available on the date of intended visit.

(Sec. 3(c)(4) of FIFRA, as amended)

Dated: October 26, 1981.

Robert V. Brown,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 81-31906 Filed 11-3-81; 8:45 am]

BILLING CODE 6560-32-M

[PF-230A; PH-FRL-1977-1]

Zoecon Corp; Amendments to Pesticide Petition

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This gives notice that a pesticide petition proposing tolerances for residues of the insect growth regulator methoprene in or on certain raw agricultural commodities has been amended.

ADDRESS: Written comments to: Franklin D. R. Gee, Product Manager (PM) 17, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Written comments may be submitted while the petition is pending before the agency. The comments are to be identified by the document control number "[PF-230A]" and the petition number. All written comments filed in response to this notice will be available for public inspection in the product manager's office from 8:30 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: Franklin D. R. Gee, (703-557-2690).

SUPPLEMENTARY INFORMATION: EPA issued a notice of filing published in the Federal Register of June 19, 1981 (46 FR 32071) that Zoecon Corp., 975 California Avenue, Palo Alto, CA 94304, had submitted a pesticide petition (PP 1F2496) to EPA. The petition proposes amending 40 CFR 180.359 by establishing tolerances for the insect growth regulator methoprene [isopropyl(E,E)-11-methoxy-3,7,11-trimethyl-2,4-dodecadienoate] in or on the raw agricultural commodities peanuts at 1.0 part per million (ppm) and peanut hulls at 20 ppm.

Zoecon Corp. has submitted amendments to the petition as follows:

(a) Increase the proposed tolerances for peanuts from 1 to 2 ppm and peanut hulls from 20 to 40 ppm.

(b) Establish tolerances for the following commodities:

Commodities	Part per million
Meat, and meat byproducts of sheep, goats, cattle, horses, and hogs	0.1
Fat of sheep, goats, horses, and hogs	0.3
Meat, fat and meat byproducts of poultry	0.05
Eggs	0.05

The proposed analytical method for determining residues is by gas chromatography.

(Sec. 408(d); 21 U.S.C. 346a)

Dated: October 21, 1981.

Robert V. Brown,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 81-31967 Filed 11-3-81; 8:45 am]

BILLING CODE 6560-32-M

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 16654; Gen. Docket No. 80-603]

Eight Direct Broadcast Satellite Applications Accepted for Interim Processing; Six Rejected as Incomplete and Eliminated From First-Priority Consideration

October 22, 1981.

The Commission has accepted for filing eight applications to provide

experimental and developmental direct broadcast satellite (DBS) services for delivering video programming by satellite directly to home antennas.

The Commission found six applications unacceptable for filing and returned them to the applicants, primarily for failure to submit technical information needed to evaluate the proposals and also for failure to provide information for evaluation of the applicants' legal and financial qualifications.

Actual DBS service remains in the future. Construction and launching of satellite systems is expected to take more than three years after applications are granted. The Commission will not take final action on any of the applications until it completes a proposed rulemaking, adopted April 21, to authorize the service in the 12.2-12.7 GHz band.

The Commission decided to accept applications before completing the rulemaking in order to expedite inauguration of DBS service to the public. It set a "cutoff" date for applications to establish a scheme of priorities.

The scheme was designed to provide an incentive for potential applicants to develop the largely untried service and make it available. If some of the applications accepted today ultimately are granted, the applicants will have priority over others if it becomes necessary to choose among competing applicants for available slots and frequencies.

In the interim between grant of the first applications and inauguration of the first service, the 1983 Regional Administrative Radio Conference on broadcast satellite services will allocate both satellite frequencies and orbital slots for the western hemisphere. The United States will participate in the conference, which will be held in Rio de Janeiro.

The RARC's actions, under the auspices of the International Telecommunication Union, will have the force of a treaty for those countries which ratify them. The actual frequencies and slots to be used in the United States and elsewhere in the hemisphere will not be known until the 1983 RARC is concluded.

Applications for interim DBS authorizations will be expected to make capital investments in the hundreds of millions of dollars. The investments will be risky, the Commission said, both because of the untried nature of the service and because of the uncertainty over frequencies and orbital slots. Adherence to the deadline for filing and

established policy on such a cutoff date, it said, will mitigate some of that risk.

As the priority scheme was envisioned, early applicants that showed their willingness to commit funds and proceed to build satellites expeditiously would be less likely to face competing applications and lengthy comparative proceedings after the slots and frequencies are known.

The Commission in today's action accepted the applications of CBS, Inc., Direct Broadcast Satellite Corporation, Graphic Scanning Corporation, RCA American Communications, Inc., United States Satellite Broadcasting Company, Video Satellite Systems, Inc., and Western Union Telegraph Company.

Part of an application by Focus Broadcast Satellite Company proposing to provide BDS via Western Union's Advanced Westar satellite also was accepted. Focus's application offered two alternatives: the Westar proposal or a proposal that Focus would build and operate its own satellite system. The latter part was found unacceptable.

The Commission said Focus' Advanced Westar proposal raised significant legal and policy issues and might pose serious technical problems. Those matters should be addressed in the context of a decision on the merits of the application after public comment, it said. Focus' application might ultimately be determined to be more appropriately licensed in another service than DBS, it said, accepting the application without prejudice to any later determination it might make.

Applications by Advance, Inc., Home Broadcast TV Partners, National Christian Network, Inc., Satellite Development Trust and Unitel Corporation also were not accepted. Letters were approved advising the applicants whose applications were not accepted of the FCC action.

The Commission released a Notice of Inquiry on DBS on November 3, 1980. Satellite Television Corporation submitted a DBS application in December 1980. The FCC accepted it April 21.

The FCC received 13 applications, including the Focus application with alternative proposals, during the 45-day period ending July 16 in which it had announced that it would accept applications for consideration along with Satellite Television's. Satellite Television then asked the Commission to rule on the acceptability of the six applications which were not accepted.

The Commission said the accepted applications represent a wide variety of detailed experimental proposals which will permit the FCC to explore

alternatives of ownership structure, financing, programming and technical characteristics.

Incomplete applications amended after the "cutoff" date should not be given equal priority with those that filed acceptable applications by the deadline, it said. To grant equal priority would be unfair, it said, both to those who filed acceptable and timely applications and those who did not file because they were not yet ready to submit complete plans.

FCC policy requires applications to be submitted in substantially complete form by an established cutoff date, and amendments filed afterward generally will not reinstate an application rejected as deficient.

The rejected applicants are not precluded from consideration, the Commission said, but they will receive lower priority. The applications of National Christian Network, Satellite Development Trust and Advance, which submitted detailed amendments, will be accepted for filing as of the dates the amendments were received if the applicants wish. If others submit adequate amendments, it said, their

applications will be accepted as of the date the amendments are received, and other applications in acceptable condition will be accepted as of the date they are received.

The Commission rejected an argument that its announcement proposing to accept DBS applications failed to inform prospective applicants that complete information would be required. Specific technical characteristics that would be examined to ensure compatibility with the probable RARC actions were stated in detail, it said, and technical standards for achieving efficient orbit and frequency use were clearly requested.

Further, it said, applicants were plainly advised that they would be required to conform to the requirements of the Communications Act applying to the particular service they proposed.

The unacceptable applications lacked information almost completely in several essential areas, it said. No application was found unacceptable for minor defects, it said.

The Commission also rejected the argument that there was insufficient time to prepare detailed applications. Satellite Television's application had

been on file for four months when the April 21 action was taken, it said. That action occurred almost three months before the cutoff date. Timely filing of the accepted applications indicates that the time provided was adequate, it said.

Action by the Commission October 22, 1981, by Memorandum Opinion and Order (FCC 81-500) and by Letters (FCC 81-501-06). Commissioners Quello, Washburn, Fogarty and Rivera, with Commissioners Jones and Dawson dissenting and issuing separate statements and Chairman Fowler not participating.

FOR FURTHER INFORMATION CONTACT:
Florence Setzer or
Bruce Franca, (202) 653-5940.

Note.—In an effort to minimize publishing costs, the Memorandum Opinion and Order and attachments will not be printed herein. However, copies of the document in its entirety may be obtained from the FCC Public Affairs office, Room 202, 1919 M St., N.W., Washington, D.C. 20554.

Federal Communications Commission.
William J. Tricarico,
Secretary.

[FR Doc. 81-31885 Filed 11-3-81; 8:45 am]

BILLING CODE 6712-01-M

Notification List

List of new stations, proposed changes in existing stations, deletions and corrections in assignments of Canadian standard broadcast stations modifying the assignments of Canadian broadcast stations contained in the Appendix to the Recommendations of the North American Regional Broadcasting Agreement Engineering Meeting January 30, 1941.

September 25, 1981.

CANADIAN LIST NO. 408

Call letters	Location	Power (Kilowatts)	Antenna	Schedule	Class	Antenna height (feet)	Ground system		Proposed date of commencement of operation
							Number of radials	Length (feet)	
970 kHz									
CFIG	Harbour Grace, Newfoundland N. 47°40'43", W. 53°12'13" (correction to List No. 406 which indicated DA-2)	10/0.5N	ND-180	U	III	170	120	428	July 20, 1982
1300 kHz									
CJME	Regina, Saskatchewan N. 50°23'54", W. 104°32'44" (Night pattern augmentation) (In operation with 10kW power).	10	DA-2	U	III				
1360 kHz									
New	Calgary, Alberta N. 50°50'20", W. 114°05'15" (Change to directional antenna system).	10	DA-N	U	III				May 5, 1982
910 kHz									
CJRV	Drumheller, Alberta N. 51°24'50", W. 112°44'10" (Change of day pattern).	10	DA-2	U	III				Sept. 25, 1982

Richard J. Shiben,

Chief, Broadcast Bureau, Federal Communications Commission.

[FR Doc. 81-31885 Filed 11-3-81; 8:45 am]

BILLING CODE 6712-01-M

[BC Docket. 81-738, File No. BPH-800212AB, etc.]

**Panhandle Communications Inc. et al.,
Construction Permit for a new FM
Station; Hearing Designation Order**

Adopted: October 16, 1981.

Released: October 28, 1981.

In re applications of Panhandle Communications, Inc. Guymon, Oklahoma, Req: 92.7 MHz, Channel 224, 3.0 kW (H&V), 300 feet BC Docket No. 81-738, File No. BPH-800212AB; High Plains Broadcasting Corp., Guymon, Oklahoma, Req: 92.7 MHz, Channel 224, 3.0 kW (H&V), 300 feet BC Docket No. 81-739, File No. BPH-800806AF; Sandra Allison Monterroso Easter, Paul Steven Easter, Sharon Garrison Ellzey, and John Charles Ellzey, d.b.a. Texas County Broadcasting, Guymon, Oklahoma, Req: 92.7 MHz, Channel 224, 3.0 kW (H&V), 300 feet BC Docket No. 81-740, File No. BPH-800829A; For Construction Permit for a New FM Station; Designating Applications for consolidated Hearing on Stated Issues; Hearing Designation Order.

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has under consideration the above-captioned mutually exclusive applications of Panhandle Communications, Inc. (Panhandle), High Plains Broadcasting Corp. (High Plains), and Sandra Allison Monterroso Easter, Paul Steven Easter, Sharon Garrison Ellzey and John Charles Ellzey, d/b/a Texas County Broadcasting (Texas County), for a new FM broadcast station at Guymon, Oklahoma, and "Oppositions" to the High Plains and Texas County applications filed by Panhandle.¹

2. Panhandle. Applicants for new broadcast stations are required by paragraph 6 of Section II of Form 301 to state whether all parties to the application are citizens of the United States. Panhandle has not adequately answered this question. In addition, although Panhandle states in paragraph 9 that 10,000 Class A shares have been

issued and 10,000 Class A shares have been subscribed for the list of principals in Table I does not account for the stock subscriptions. To remedy these deficiencies, Panhandle will be required to submit an amendment providing this information to the Presiding Administrative Law Judge.

3. Analysis of the financial data submitted by Panhandle reveals that \$192,877 will be required to construct the proposed station and operate for three months, itemized as follows:

Equipment	\$78,377
Land	14,000
Buildings	31,000
Miscellaneous	39,500
Operating costs (three months)	30,000
Total	192,877

Panhandle plans to finance construction and operation with the following funds: \$10,000 existing capital; \$50,000 in new capital and a \$150,000 bank loan. However, the financial statement submitted by Mike Williams purporting to demonstrate his ability to furnish \$50,000 in new capital is not dated in accordance with paragraph 4(b) of Section III. Furthermore, we only find evidence of \$9,800 in current liquid assets offset by \$28,000 in liabilities in the financial statement. Additionally, Panhandle has neglected to furnish any documentation or writing evidencing the availability of its bank loan. Accordingly, Panhandle has failed to show the necessary documentation to support more than \$10,000 available to meet the \$192,877 required for construction and operation, and a financial issue will be specified.

4. Section 73.1125 of the Commission's Rules requires that the main studio of an FM station be located within the city of license, but that on a showing of good cause the main studio may be located outside that community. Panhandle proposes to locate its main studio "NE of City". It has neither requested a waiver of § 73.1125 nor provided adequate justification for the proposed studio location. Accordingly, an issue will be specified.

Panhandle's application indicated that it will require eight employees. There is no indication how many will be fulltime and how many parttime. The Commission requires that if there will be five or more fulltime station employees, the applicant must complete and file Section VI of FCC Form 301 and supply a statement detailing the applicant's hiring and promotion policies even though there may be only a few members of minority races residing within the proposed service area. Panhandle has submitted no such EEO program. Accordingly, an issue will be specified.

6. High Plains. Section II, Paragraph 3 of Form 301 requires that copies of the articles of incorporation of the corporation be provided by the applicant. From the information before us, High Plains has failed to submit its articles or, if the articles are already on file with the Commission, to incorporate them by reference. High Plains is listed in Section I as "High Plains Broadcasting Corp.," but the applicant has submitted proposed By-Laws of "High Plains Broadcasters, Inc." In addition, we note that High Plains has failed to account for 5,000 shares of stock subscriptions. An issue will be included, therefore, to determine whether High Plains is legally qualified to be a Commission licensee.

7. It appears that Sean Kelly, Kathleen Kelly Bontwell, Dana Kelly Harris and Tracy Kelly are the children of Don M. Kelly. For some inexplicable reason, however, Don Kelly, in Question 19 of Section II of FCC Form 301, indicated that no family relationship existed. If, in fact, the parties are related, under the circumstances presented we believe that the denial was inadvertent and not an attempt to intentionally mislead the Commission. Thus, we will direct High Plains to file a statement with the Administrative Law Judge which either affirms the denial or, if a mistake was made, sets out the true facts and circumstances involved.

8. High Plains proposes nine full-time employees but has not provided the required EEO information. Accordingly, an issue will be specified.

9. Since no determination has been reached that the antenna proposed by High Plains would not constitute a menace to air navigation, an issue regarding this matter is required.

10. Texas County. Despite indications in its engineering showing that the studio site located is outside the city of Guymon, it has not requested a waiver of § 73.1125, the main studio location rule. Accordingly, an issue will be specified.

11. Data submitted by the applicants indicates that there would be a significant difference in the size of the areas and populations which would receive service from the proposals. Consequently, for the purpose of comparison, the areas and populations which would receive FM service of 1 mV/m or greater intensity, together with the availability of other primary aural services in such areas, will be considered under the standard comparative issue, for the purpose of determining whether a comparative preference should accrue to any of the applicants.

¹ The "Oppositions" filed by Panhandle are essentially petitions to specify issues. Pursuant to the Commission's Report and Order in re *Revised Procedures for the Processing of Contested Broadcast Applications; Amendments of Part I of the Commission's Rules*, 72 FCC 2d 202, 45 RR 2d 1220 (1979), which directed the deletion of all issue pleadings in pending cases, the matters sought to be raised by the parties in issue pleadings and amendments have been considered herein only to the extent they relate to qualifications issues specifically included in this order. Accordingly, an opportunity to raise any allegations contained in the issue pleadings which have not been discussed herein will be afforded the parties post designation pursuant to § 1.228.

12. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

13. Accordingly, it is ordered, That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine with respect to Panhandle Communications, Inc.:

(a) the source and availability of additional funds over and above the \$10,000 indicated; and

(b) whether, in light of the evidence adduced pursuant to (a) above, the applicant is financially qualified.

2. To determine whether the proposal of Panhandle to locate the main studio outside its community of license is in compliance with § 73.1125 of the Commission's Rules with respect to location of the main studio and, if not, whether circumstances warrant a waiver of that Section.

3. To determine whether Panhandle has complied with the requirements of Section VI of FCC Form 301.

4. To determine whether High Plains is legally qualified to be a Commission licensee.

5. To determine whether there is a reasonable possibility that the tower height and location proposed by High Plains Broadcasting Corp. would constitute a hazard to air navigation.

6. To determine whether the proposal of Texas County to locate the main studio outside its community of license is in compliance with § 73.1125 of the Commission's Rules with respect to location of the main studio and, if not, whether circumstances warrant a waiver of that Section.

7. To determine which of the proposals would, on a comparative basis, best serve the public interest.

8. To determine, in the light of the evidence adduced pursuant to the foregoing issues, which of the applicants should be granted.

14. It is further ordered, That Panhandle Communications, Inc. shall file an amendment with the Presiding Administrative Law Judge (i) showing compliance with the U.S. citizenship requirements of Section II, Paragraph 6 of Form 301, and (ii) clarifying its proposed stock subscriptions.

15. It is further ordered, That High Plains Broadcasting Corp. shall file an amendment regarding the relationships

of its stockholder in accordance with paragraph 7 of this Order.

16. It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

17. It is further ordered, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594(g) of the Commission's Rules, give notice of the hearing (either individually or, if feasible and consistent with the Rules, jointly) within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the rules.

Federal Communications Commission.

Larry D. Eads,

Acting Chief, Broadcast Facilities Division.

[FR Doc. 81-31864 Filed 11-3-81; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

Okeania S.A. and Okeania Maritime Company S.A. Trading as Chandris Lines/Chandris Cruises c/o Chandris Inc.; Order of Revocation

In the matter of a certificate of financial responsibility for indemnification of passengers for nonperformance of transportation Nos. P-3, P-179 and certificates of financial responsibility to meet liability incurred for death or injury to passengers or other persons on voyages Nos. C-1,008, C-1,175.

Whereas, Okeania S.A. and Okeania Maritime Company S.A. trading as Chandris Lines/Chandris Cruises, 666 Fifth Avenue, New York, New York 10019, have ceased to operate the passenger vessel AUSTRALIS to and from United States ports.

It is ordered, that Certificate (Performance) No. P-3 and Certificate (Casualty) No. C-1,008 issued to Okeania S.A. and Certificate (Performance) P-179 and Certificate (Casualty) No. C-1,175 issued to Okeania Maritime Company S.A. covering the AUSTRALIS be and are hereby revoked effective October 22, 1981.

It is further ordered, that a copy of this Order be published in the Federal Register and served on the certificants.

By the Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 81-31967 Filed 11-3-81; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Alma Bancshares Corp.; Formation of Bank Holding Company

Alma Bancshares Corporation, Alma, Missouri, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 81 per cent of the voting shares of Alma Bank, Alma, Missouri. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than November 25, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, October 28, 1981.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 81-31930 Filed 11-3-81; 8:45 am]

BILLING CODE 6210-01-M

Austin County Bancshares, Inc.; Formation of Bank Holding Company

Austin County Bancshares, Inc., Bellville, Texas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 per cent of the voting shares of Austin County State Bank, Bellville, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than November 27, 1981. Any comment on an application that requests a hearing must include a

statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, October 28, 1981.

Theodore E. Downing, Jr.,
Assistant Secretary of the Board.

[FR Doc. 81-31931 Filed 11-3-81; 8:45 am]

BILLING CODE 6210-01-M

Bon, Inc.; Formation of Bank Holding Company

Bon, Inc., Moundridge, Kansas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 96.9 per cent of the voting shares of The Citizens State Bank, Moundridge, Kansas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than November 27, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, October 28, 1981.

Theodore E. Downing, Jr.,
Assistant Secretary of the Board.

[FR Doc. 81-31932 Filed 11-3-81; 8:45 am]

BILLING CODE 6210-01-M

Broadway Bancshares, Inc.; Formation of Bank Holding Company

Broadway Bancshares, Inc., Kansas City, Missouri, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 per cent of the voting shares of Broadway National Bank, Kansas City, Missouri. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas

City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than November 27, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, October 28, 1981.

Theodore E. Downing, Jr.,
Assistant Secretary of the Board.

[FR Doc. 81-31933 Filed 11-3-81; 8:45 am]

BILLING CODE 6210-01-M

Central Bancshares, Inc.; Formation of Bank Holding Company

Central 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 100 percent of the voting shares, less directors' qualifying shares, of Central Bank of Houston, Houston, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than November 27, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, October 28, 1981.

Theodore E. Downing, Jr.,
Assistant Secretary of the Board.

[FR Doc. 81-31934 Filed 11-3-81; 8:45 am]

BILLING CODE 6210-01-M

CNB Financial Corp.; Formation of Bank Holding Company

CNB Financial Corp., Auburn, Indiana, has applied for the Board's approval under 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 81 per cent or more of the voting shares of The City National Bank of Auburn, Auburn,

Indiana. The factors that are considered in acting on the application are set forth in 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than November 24, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, October 28, 1981.

Theodore E. Downing, Jr.,
Assistant Secretary of the Board.

[FR Doc. 81-31935 Filed 11-3-81; 8:45 am]

BILLING CODE 6210-01-M

Crocker Bank International; Establishment of U.S. Branch of a Corporation Organized Under Section 25(a) of the Federal Reserve Act

Crocker Bank International, New York, New York, a corporation organized under section 25(a) of the Federal Reserve Act, has applied for the Board's approval under § 211.4(c)(1) of the Board's Regulation K (12 CFR 211.4(c)(1)), to establish branches in Houston, Texas; Miami, Florida; and Seattle, Washington. Crocker Bank International operates as a subsidiary of Crocker National Bank, San Francisco, California.

The factors that are to be considered in acting on this application are set forth in § 211.4(a) of the Board's Regulation K (12 CFR 211.4(a)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of San Francisco. 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 November 27, 1981. 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, October 28, 1981.

Theodore E. Downing, Jr.,
Assistant Secretary of the Board.
[FR Doc. 81-31936 Filed 11-3-81; 8:45 am]
BILLING CODE 6210-01-M

First Bancorporation; Proposed Acquisition of Beehive Financial Corp. and Beehive Thrift and Loan Company

First Bancorporation, Salt Lake City, Utah, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of Beehive Financial Corporation and its wholly-owned subsidiary, Beehive Thrift and Loan Company, Salt Lake City, Utah.

Applicant states that the proposed subsidiary would engage in the activities of an industrial loan company. These activities would be performed from offices of Applicant's subsidiary in Salt Lake City, Utah, and the geographic area to be served is Salt Lake City, Utah. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as under 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 San Francisco.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than November 27, 1981.

Board of Governors of the Federal Reserve System, October 28, 1981.

Theodore E. Downing, Jr.,
Assistant Secretary of the Board.
[FR Doc. 81-31937 Filed 11-3-81; 8:45 am]
BILLING CODE 6210-01-M

Mountain Financial Services, Inc.; Acquisition of Bank

Mountain Financial Services, Inc., Denver, Colorado, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 per cent of the voting shares of Southeast Parker Road National Bank, Arapahoe County, Colorado. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than November 25, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, October 28, 1981.

Theodore E. Downing, Jr.,
Assistant Secretary of the Board.
[FR Doc. 81-31943 Filed 11-3-81; 8:45 am]
BILLING CODE 6210-01-M

Seattle-First International Bank; 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 Seattle-First International Bank, with its headquarters in Seattle, Washington, and a branch in Portland, Oregon. Seattle-First International Bank would operate as a subsidiary of Seattle-First National Bank, Seattle, Washington. 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 211.4(a)).

The application 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 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 November 27, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, October 28, 1981.

Theodore E. Downing, Jr.,
Assistant Secretary of the Board.
[FR Doc. 81-31944 Filed 11-3-81; 8:45 am]
BILLING CODE 6210-01-M

Marine Corp.; Acquisition of Bank

The Marine Corporation, Milwaukee, Wisconsin, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 per cent of the voting shares of the successor by merger to First Financial Group, Inc., Janesville, Wisconsin, and thereby indirectly acquire 90 per cent or more of the voting shares of the First National Bank, Janesville, Wisconsin; First Peoples Bank, Janesville, Wisconsin; and Tobacco Exchange Bank, Edgerton, Wisconsin. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than November 27, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, October 28, 1981.

Theodore E. Downing, Jr.,
Assistant Secretary of the Board.
[FR Doc. 81-31945 Filed 11-3-81; 8:45 am]
BILLING CODE 6210-01-M

Trustco Bancshares, Inc.; Formation of Bank Holding Company

Trustco Bancshares, Inc., Kearney, Missouri, has applied for the Board's approval under section 3(a)(1) of the

Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of Kearney Trust Co., Kearney, Missouri. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than November 27, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, October 28, 1981.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 81-31946 Filed 11-3-81; 8:45 am]

BILLING CODE 6210-01-M

Tulsa Commerce Bancshares, Inc.; Formation of Bank Holding Company

Tulsa Commerce Bancshares, Inc., Tulsa, Oklahoma, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 99.47 per cent of the voting shares of Bank of Commerce and Trust Company, Tulsa, Oklahoma. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than November 27, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, October 28, 1981.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 81-31947 Filed 11-3-81; 8:45 am]

BILLING CODE 6210-01-M

Western Bancshares of Springer, Inc.; Formation of Bank Holding Company

Western Bancshares of Springer, Inc., Springer, New Mexico, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of Western Bank, Springer, New Mexico. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than November 25, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, October 28, 1981.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 81-31948 Filed 11-3-81; 8:45 am]

BILLING CODE 6210-01-M

Wilaine Corp.; Formation of Bank Holding Company

Wilaine Corporation, Des Moines, 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 Annawan Investment Company, Annawan, Illinois and thereby indirectly acquiring The State Bank of Annawan, Annawan, Illinois. 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)).

Wilaine Corporation, Des Moines, 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

acquire voting shares of Annawan Investment Company, Annawan, Illinois.

Applicant states that the proposed subsidiary would engage in the sale of general insurance in a town with a population of less than 5,000. These activities would be performed from offices of Applicant's subsidiary in Annawan, Illinois, and the geographic area to be served in Annawan. Such activities have been specified by the Board, in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of section 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 requests 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 Reserve Bank not later than November 27, 1981.

Board of Governors of the Federal Reserve System, October 28, 1981.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 81-31949 Filed 11-3-81; 8:45 am]

BILLING CODE 6210-01-M

First American Corp.; Acquisition of Bank

First American Corporation, Nashville, Tennessee, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 per cent of the voting shares of The First National Bank of Jackson, Jackson, Tennessee. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than November 27, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, October 28, 1981.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 81-31973 Filed 11-3-81; 8:45 am]

BILLING CODE 6210-01-M

First Virginia Banks, Inc.; Acquisition of Bank

First Virginia Banks, Inc., Falls Church, Virginia, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares of First Virginia Bank-Damascus, Damascus, Virginia, the successor by merger to the Bank of Damascus, Inc., Damascus, Virginia. 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 Richmond. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than November 27, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, October 28, 1981.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 81-31938 Filed 11-3-81; 8:45 am]

BILLING CODE 6210-01-M

Germantown Bancshares, Inc.; Formation of Bank Holding Company

Germantown Bancshares, Inc., Germantown, Tennessee, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a

bank holding company by acquiring 100 percent of the voting shares of the successor by merger to The Bank of Germantown, Germantown, Tennessee. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of St. Louis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than November 27, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, October 28, 1981.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 81-31939 Filed 11-3-81; 8:45 am]

BILLING CODE 6210-01-M

Heartland Bancorp; Formation of Bank Holding Company

Heartland Bancorp, Dubuque, Iowa, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of Dubuque Bank and Trust Company, Dubuque, Iowa, the factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than November 27, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, October 28, 1981.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 81-31940 Filed 11-3-81; 8:45 am]

BILLING CODE 6210-01-M

Security Bancshares, Inc.; Formation of Bank Holding Company

Security Bancshares, Inc., Kansas City, Kansas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 percent of the voting shares, less directors' qualifying shares, of the successor by merger to Security National Bank of Kansas City, Kansas City, Kansas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than November 27, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, October 28, 1981.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 81-31941 Filed 11-3-81; 8:45 am]

BILLING CODE 6210-01-M

United Capital Bancshares, Inc.; Formation of Bank Holding Company

United Capital Bancshares, Inc., Wyandotte, Oklahoma, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of The Bank of Wyandotte, Wyandotte, Oklahoma. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

United Capital Bancshares, Inc., Wyandotte, Oklahoma, has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of Smith Agency, Wyandotte, Oklahoma.

Applicant states that the proposed subsidiary would engage in the sale of general insurance, primarily property and casualty insurance, in a community that has a population not exceeding 5,000. These activities would be

performed from offices of Applicant's subsidiary in Wyandotte, Oklahoma, and the geographic area to be served is Wyandotte, Oklahoma. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City.

Any views or requests for hearing should be submitted in writing and received by the Reserve Bank not later than November 19, 1981.

Board of Governors of the Federal Reserve System, October 28, 1981.

Theodore E. Downing, Jr.,
Assistant Secretary of the Board.

[FR Doc. 81-31942 Filed 11-3-81; 8:45 am]

BILLING CODE 6210-01-M

GENERAL SERVICES ADMINISTRATION

[F-81-16]

Delegation of Authority to the Secretary of Defense

1. *Purpose.* This delegation authorizes the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government in proceedings before the Kansas State Corporation Commission involving intrastate telecommunications service rates.

2. *Effective date.* This delegation is effective immediately.

3. Delegation.

a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63

Stat. 377, as amended, particularly Sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the Federal executive agencies before the Kansas State Corporation Commission involving the application of the Southwestern Bell Telephone Company for an increase in rates for telecommunications services.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

d. The Department of Defense shall add the General Services Administration to its service list in this case so that GSA will receive copies of testimony, briefs and other Department of Defense filings.

Dated: October 26, 1981.

Ray Kline,

Deputy Administrator of General Services.

[FR Doc. 81-31886 Filed 11-3-81; 8:45 am]

BILLING CODE 6820-25-M

[F-81-17]

Delegation of Authority to the Secretary of Defense

1. *Purpose.* This delegation authorizes the Secretary of Defense to represent, in conjunction with the Administrator of General Services, the consumer interests of the executive agencies of the Federal Government in proceedings before the North Dakota Public Service Commission involving intrastate telecommunications service rates.

2. *Effective date.* This delegation is effective immediately.

3. Delegation.

a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly Sections 201(A)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the Federal executive agencies before the North Dakota Public Service Commission involving the application of the Northwestern Bell Telephone Company for an increase in rates for telecommunications services. The authority delegated to the Secretary of Defense shall be exercised concurrently

with the Administrator of General Services.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

d. The Department of Defense shall add the General Services Administration to its service list in this case so that GSA will receive copies of testimony, briefs and other Department of Defense filings.

Dated: October 26, 1981.

Ray Kline,

Deputy Administrator of General Services.

[FR Doc. 81-31885 Filed 11-3-81; 8:45 am]

BILLING CODE 6820-25-M

[F-81-18]

Delegation of Authority to the Secretary of Defense

1. *Purpose.* This delegation authorizes the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government in proceedings before the North Carolina Utilities Commission for an increase in rates for telecommunications services.

2. *Effective date.* This delegation is effective immediately.

3. Delegation.

a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the Federal executive agencies before the North Carolina Utilities Commission involving the application of the Southern Bell Telephone Company for an increase in rates for telecommunications services.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

d. The Department of Defense shall add the General Services

Administration to its service list in this case so that CSA will receive copies of testimony, briefs and other Department of Defense filings.

Dated: October 26, 1981.

Ray Kline,

Deputy Administrator of General Services.

[FR Doc. 81-31894 Filed 11-3-81; 8:45 am]

BILLING CODE 6820-25-M

Federal Property Resources Service

[H-81-3]

Revocation of Delegation of Authority

1. *Purpose.* This document revokes the authority delegated to the Secretary of Housing and Urban Development, to dispose of surplus real property at the Nichols Army Support Facility, Louisville, Kentucky.

2. *Effective date.* This document is effective immediately.

3. *Expiration date.* This document expires December 31, 1981.

4. *Revocation.* This revocation rescinds the authority provided by the delegation below, as the purpose for which it was issued has been accomplished.

FPMR temporary regulation	Date	Subject
H-7	10-28-68	Delegation of authority to the Secretary of Housing and Urban Development.

Dated: October 26, 1981.

Ray Kline,

Deputy Administrator of General Services.

[FR Doc. 81-31897 Filed 11-3-81; 8:45 am]

BILLING CODE 6820-96-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Services Administration

Material and Child Health Research Grants Review Committee; Announcement of Meeting Cancellation

In FR Doc. 81-28345 appearing at page 47870 in the issue for Wednesday, September 30, 1981, the November 18-19, 1981 meeting of the Maternal and Child Health Research Grants Review Committee has been cancelled.

Dated: October 29, 1981.

William H. Aspden, Jr.,

Associate Administrator for Management.

[FR Doc. 81-31892 Filed 11-3-81; 8:45 am]

BILLING CODE 4110-84-M

Office of the Secretary

Federal Council on the Aging; Cancellation of Meeting

Notice is hereby given that the Federal Register Notice concerning a meeting of the Federal Council on the Aging on November 5-6, 1981 is cancelled. The Notice was published in Volume 46, Monday, October 26, 1981, page 52229.

Further information may be obtained from the Federal Council on the Aging, Washington, D.C. 20201, telephone (202) 245-0441.

Dated: October 29, 1981.

Robert M. Foster,

Acting Staff Director.

[FR Doc. 81-31919 Filed 11-3-81; 8:45 am]

BILLING CODE 4110-92-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[F-14884-A, F-14884-A2]

Alaska Native Claims Selection

The purpose of this decision is to amend the decision dated September 26, 1980.

Pursuant to ANCLAB order VLS 80-44 dated February 20, 1981, the following easement reservations are deleted:

a. [EIN 2C3, D9] An easement for an existing access trail, twenty-five (25) feet in width, from Kwigillingok in Sec. 1, T. 4 S., R. 81 W., Seward Meridian, northeasterly to Kongiganak and 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.

b. [EIN 4 C4] An easement for a proposed access trail, twenty-five (25) feet in width, from Kwigillingok airstrip, 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.

These easements are not necessary to provide access to public lands and are therefore not justified under Sec. 17(b) of the Alaska Native Claims Settlement Act (43 U.S.C. 1601, 1616(b)), (1976).

To further comply with ANCLAB order VLS 80-44 the decision on the navigability of Tunulig Slough is amended as follows:

That portion of Tunulig Slough from its confluence with an unnamed slough in Sec. 28, T. 2 S., R. 80 W., Seward Meridian easterly to its confluence with the Kongignamohk River in Sec. 26, T. 2 S., R. 80 W., Seward Meridian is determined to be nonnavigable.

The submerged lands underlying Tunulig Slough within Sec. 28, T. 2 S., R. 80 W., Seward Meridian, is hereby approved for conveyance to Kwik Incorporated.

Except as amended by this decision, the decision of September 26, 1980, stands as written.

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 Drums*.

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. *Provided, however*, pursuant to Pub. L. 96-487, this decision constitutes the final administrative determination of the Department of the Interior concerning navigability of water bodies.

Appeals should be filed with 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 100, 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 4, 1981 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:

Kwik Incorporated, Kwigillingok, Alaska 99622

Calista Corporation, 516 Denali Street,
Anchorage, Alaska 99501

Ann Johnson,

Chief, Branch of ANCSA Adjudication.

[FR Doc. 81-31957 Filed 11-3-81; 8:45 am]

BILLING CODE 4310-84-M

[1784]

Cedar City District Multiple Use Advisory Council; Meeting

Notice is hereby given in accordance with Pub. L. 92-463, that a meeting of the Cedar City District Multiple Use advisory Council will be held on December 10, 1981.

The meeting will begin at 9:30 a.m. at the Cedar City District Office, 1579 North Main, Cedar City, Utah. The agenda will consist of a discussion of planning issues in the Pinyon Planning Unit. Planning criteria for future land use plans will also be covered.

All Advisory Council meetings are open to the public. Interested persons may make oral statements at 9:30 a.m. on the 10th at the District Office or file written statements for the Council's consideration. Anyone wishing to make oral statements must notify the District Manager, P.O. Box 724, Cedar City, Utah 84720 by December 9, 1981. Depending on the number of persons wishing to make a statement, a per person time limit may be established by the District Manager or Council Chairman.

Morgan S. Jensen,
District Manager.

October 28, 1981.

[FR Doc. 81-31893 Filed 11-3-81; 8:45 am]

BILLING CODE 4310-84-M

[1784]

Ely District Advisory Council; Meeting

AGENCY: Bureau of Land Management,
Interior.

ACTION: Notice of meeting.

SUMMARY: The Ely District Advisory Council will conduct a meeting on Wednesday, December 9, 1981. The meeting will convene at 10:00 a.m. at the Lincoln County Courthouse, Pioche, Nevada. The following events and topics will be included on the agenda for the meeting:

- (1) Minutes of the last meeting.
- (2) Committee reports.
- (3) Acting District Manager's comments.
- (4) Briefing on Schell MFP for Wilderness.
- (5) Question and answer session for Schell MFP for Wilderness.
- (6) Public comment period.
- (7) Update on activities by Resource Area.
- (8) Council recommendations.
- (9) Determination of next meeting date and place.

The meeting is open to the public. Written comments may be filed with the District Manager for the Council's consideration, and oral statements will be heard between 11:30 a.m. and 12:00 p.m., December 9, 1981. Depending on the number of persons wishing to make a statement, a per person time limit may be established by the District Manager.

Summary minutes of the meeting will be available for public inspection at the Ely District Office within 30 days following the meeting.

DATE: December 9, 1981.

ADDRESS: Bureau of Land Management,
Star Route 5, Box 1, Ely, Nevada 89301.

FOR FURTHER INFORMATION CONTACT:
Ms. Cleone McDonald, 702-289-4865.

Dated: October 23, 1981.

George W. Cropper,
District Manager.

[FR Doc. 81-31899 Filed 11-3-81; 8:45 am]

BILLING CODE 4310-84-M

[W-72495]

Realty Action Sale of Public Lands in Natrona County, Wyo.

October 23, 1981.

The following described lands have been determined to be suitable for disposal by sale pursuant to Section 203 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1713, at no less than the fair market value.

Sixth Principal Meridian, Wyoming

T. 40 N., R. 78 W.,

Sec. 30, lot 9.

T. 40 N., R. 79 W.

Sec. 24, lots 1, 2, 6, 7, 8, 9, 10, 11.

SW $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$.

W $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$.

N $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$

SE $\frac{1}{4}$ SE $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$.

Containing 95.045 acres.

The land is to be sold noncompetitively to the Town of Midwest. The purpose of this sale is to aid the Town of Midwest by providing lands for expansion. The terms and conditions applicable to the sale are:

1. A reservation to the United States of the right to construct ditches or canals pursuant to the Act of August 30, 1890, 43 U.S.C. 945;
2. All mineral deposits in the lands so patented, and to it, or persons authorized by it, the right to prospect, mine, and remove such deposits from the same under applicable law and such regulations as the Secretary of the Interior may prescribe.
3. All valid existing rights which are more particularly described and of record in the Bureau of Land Management, Casper District Office, 951

Rancho Road, Casper, Wyoming 82601, or Wyoming State Office, P.O. Box 1828, Cheyenne, Wyoming 82001.

Detailed information concerning the sale is available for review at the Bureau of Land Management Casper District Office, 951 Rancho Road, Casper Wyoming 82601.

On or before December 8, 1981, interested parties may submit comments to the State Director, Bureau of Land Management, P.O. Box 1828, Cheyenne, Wyoming 82001. Any adverse comments will be evaluated by the State Director who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become the final determination of the Department of the Interior.

William S. Gilmer,

Acting Chief, Branch of Lands and Minerals
Operations.

[FR Doc. 81-31891 Filed 11-3-81; 8:45 am]

BILLING CODE 4310-84-M

Fish and Wildlife Service

Endangered Species Permit; Receipt of Applications

The applicants listed below wish to be authorized to conduct the specified activity with the indicated Endangered Species:

Applicant: Key Deer National Wildlife Refuge, USFWS, Big Pine Key, FL, PRT 2-8581.

The applicant requests a permit to capture Key deer (*Odocoileus virginianus clavium*) for relocation to other suitable habitat, marking, and other activities outlined in the Key Deer Recovery Plan for scientific research and enhancement of survival.

Applicant: Florida State Museum, University of Florida, Gainesville, FL, PRT 2-7802.

The applicant requests a permit to import dead salvaged specimens of Haitian solenodons (*Solenodon paradoxus*) from the Dominican Republic for scientific research. The applicant already has a permit to import these specimens from Haiti.

Applicant: Jones and Stokes, Inc., Sacramento, CA, PRT 2-8586.

The applicant requests a permit to capture, mark, and release Salt Marsh Harvest mice (*Reithrodontomys raviventris*) at the Concord Naval Weapons Station, California, for scientific research.

Humane care and treatment during transport, if applicable, has been indicated by the applicants.

Documents and other information submitted with these applications are

available to the public during normal business hours in Room 601, 1000 N. Glebe, Arlington, Virginia, or by writing to the U.S. Fish & Wildlife Service, WPO, P.O. Box 3654, Arlington, VA 22203.

Interested persons may comment on these applications on or before December 4, 1981 by submitting written data, views, or arguments to the above address. Please refer to the file number when submitting comments.

Dated: October 30, 1981.

R. K. Robinson,

Chief, Branch of Permits, Federal Wildlife Permit Office.

(FR Doc. 81-32006 Filed 11-3-81; 8:45 am)

BILLING CODE 4310-84-M

Endangered Species Permit; Notice of Receipt of Applications

The applicants listed below wish to be authorized to conduct the specified activity with the indicated Endangered Species:

Applicant: San Diego Wild Animal Park, San Diego, California, PRT 2-8563.

The applicant requests a permit to import two (2) male and three (3) female, captive bred Indian lions (*Panthera leo Persica*) from the Tierpark, Berlin, East Germany, for enhancement of propagation.

Applicant: San Francisco Zoological Garden, San Francisco, California, PRT 2-8553.

The applicant requests a permit to import two captive-bred white-fronted lemurs (*Lemur macaco albifrons*) from the Assiniboine Park Zoo, Winnipeg, Manitoba, Canada for enhancement of propagation.

Human care and treatment during transport, if applicable, has been indicated by the applicants.

Documents and other information submitted with these applications are available to the public during normal business hours in Room 601, 1000 N. Glebe Rd., Arlington, Virginia, or by writing to the U.S. Fish & Wildlife Service, WPO, P.O. Box 3654, Arlington, VA 22203.

Interested persons may comment on these applications on or before December 4, 1981, by submitting written data, views, or arguments to the above address. Please refer to the file number when submitting comments.

Dated: October 27, 1981.

R. K. Robinson,

Chief, Branch of Permits, Federal Wildlife Permit Office.

(FR Doc. 81-32008 Filed 11-3-81; 8:45 am)

BILLING CODE 4310-55-M

National Park Service

Intent To Negotiate Concession Contract

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 thirty (30) days after the date of publication of this notice, the Department of the Interior, through the Director of the National Park Service, proposes to negotiate a concession contract with Thomas and Suzan Jaharis, d/b/a Oak Bottom Marina, authorizing them to continue to provide food service, general merchandising, and marina facilities and services for the public at Whiskeytown National Recreation Area, California for a period of six (6) years from January 1, 1981, through December 31, 1986.

This contract renewal has been determined to be a categorical exclusion under the National Park Service regulations implementing the National Environmental Policy Act and no environmental document will be prepared.

The foregoing concessioners have performed their obligations to the satisfaction of the Secretary under an existing contract which expired by limitation of time on December 31, 1980, and therefore, pursuant to the Act of October 9, 1965, as cited above, are entitled to be given preference in the renewal of the contract and in the negotiation of a new contract. This provision in effect grants Thomas and Suzan Jaharis, as the present satisfactory concessioners, 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 Thomas and Suzan Jaharis is substantially equal to others received. In the event a responsive proposal superior to that of Thomas and Suzan Jaharis (as determined by the Secretary) is submitted, Thomas and Suzan Jaharis will be given the opportunity to meet the terms and conditions of the superior proposal the Secretary considers desirable, and, if they do so, the new contract will be negotiated with Thomas and Suzan Jaharis. 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 4, 1981, to be considered and evaluated.

Interested parties should contact the Regional Director, Western Region, National Park Service, 450 Golden Gate Avenue, Box 36063, San Francisco, CA

94102, for information as to the requirements of the proposed contract.

Dated: October 23, 1981.

Howard H. Chapman,

Regional Director, Western Region.

(FR Doc. 81-31980 Filed 11-4-81; 8:45 am)

BILLING CODE 4310-70-M

Outdoor Recreation Grants-in-Aid Manual

AGENCY: National Park Service, Interior.

ACTION: Notice—The Outdoor Recreation Grants-in-Aid Manual.

SUMMARY: The National Park Service is requesting comments on Part 640.7 of the Outdoor Recreation Grants-in-Aid Manual. Part 640.7 requires that States, in order to be eligible for Federal financial assistance pursuant to the Land and Water Conservation Fund Act of 1965 (Pub. L. 88-578), as amended, shall develop and implement an open project selection process.

The requirement for an open project selection process was promulgated by the former Heritage Conservation and Recreation Service on January 31, 1980. The purpose of this requirement is to better assure that equal opportunity is provided to all eligible entities of government to apply for grants and to better assure that States were meeting priority recreation needs with the limited funds available.

Part 640.7 of the Manual currently requires that the States have an open project selection process in place on or before October 1, 1981.

This request for comments is being made to further the goal of the Department of the Interior to review and simplify, where necessary, Federal regulations and requirements.

Comments on the proposed amendments are requested from concerned public agencies and the public. Comments received within 60 days shall be considered.

ADDRESSES: Send comments to Chief, Division of State, Local and Urban Programs, National Park Service, 18th and C Street N.W., Washington, D.C. 20240. For further information contact, Randolph J. Clement, Division of State, Local and Urban Programs, (202) 272-3660.

Part 640.7—Open Project Selection Process

1 Purpose. The purpose of this chapter is to establish requirements for an open selection process which better assures equal opportunity for all eligible project sponsors and all sectors of the general public to participate in the

processes and benefits of the Land and Water Conservation Fund State Assistance Program and enables the States to affirmatively address and better attempt to meet priority needs.

2. *Goals.* An open project selection process developed by the States shall be designed to accomplish the following goals:

A. Provide for public knowledge of and participation in the formulation and/or application of the project selection process utilized by the State in allocating Land and Water Conservation Fund assistance.

B. Provide the opportunity for all eligible State and local agencies to submit project application and have them considered on an equitable basis.

C. Ensure that the distribution of Land and Water Conservation Fund assistance is accomplished in a non-discriminatory manner, especially with regard to minority populations, the elderly and the handicapped, and to ensure a fair and equitable evaluation of all applications for L&WCF assistance.

D. Ensure that all units of government are aware of the availability and process for obtaining Fund assistance.

3. *Requirements for an Open Project Selection Process.* Each State shall, as a condition of eligibility to receive assistance under the Fund program, implement an open project selection process which has the following components:

A. A priority rating system for selecting projects, developed by the State, that ensures the fair and equitable evaluation of all projects and at a minimum:

(1) Places strong emphasis on the project's conformance with priority needs identified in the SCORP, action program.

(2) Encourages public participation (at minimum the solicitation and consideration of public views) in the formulation on the project proposal at the project sponsor level.

(3) Recognizes the need for proposed projects, to the greatest extent practicable, to be accessible to all segments of the general public including minority populations (defined as including Blacks, Hispanics, Native Americans and Asian Americans), the elderly and handicapped.

(4) Requires conformance of the project with project eligibility and evaluation criteria outlined in Chapters 640 and 660 of the Manual.

B. A system for selecting projects which incorporates the State's priority rating system shall be used. The system shall assure that proposals are

evaluated and selected on the basis of quality and conformance with the priority rating system.

C. An active outreach program which encourages participation in the program by all eligible entities within the State. The elements of the outreach program shall include a means to inform, at least biennially, all potentially eligible project sponsors about the program. This may be accomplished through direct contact with all potential sponsors or indirectly through State and local organizations. The information supplied relative to the program shall include the types of areas and facilities eligible for funding, how to apply for assistance under the program and how the State's project selection process works. States are encouraged to make available to project sponsors the criteria used in prioritizing projects and the State's overall goals and objectives for the program.

D. Technical assistance to any sponsor who is in need of such assistance in order to participate in the program. Such assistance should, to the extent feasible, be provided in project formulation and proposal preparation, and in obtaining the non-federal matching share.

E. The use of Advisory Boards, Commissions or Committees to assist the State in selection of proposals to receive the available L&WCF monies is encouraged but not required. If Advisory Boards, Commissions or Committees are utilized by the State they will include in their membership representation by minorities to the extent that such representation reasonably reflects the ratio of the non-minority to the minority population of the State.

F. Affirmative action to assure that good faith efforts are made to encourage projects which directly benefit minority populations in the State. This may be accomplished through the SCORP planning process, and shall at a minimum, reflect an effort to encourage applications for communities with significant minority populations. Since social conditions vary from State to State, the design of the approach shall be determined by the State.

G. A recurring funding cycle instituted to regularize the timing for receiving and evaluating applications. Potential project sponsors are to be made aware of the funding cycle through the outreach program.

H. The evaluation and selection of project proposals during the funding cycle at intervals selected by the State. The advice and assistance of an advisory board or committee which includes minority representation is encouraged. At the State's option,

current practices to divide the Fund apportionment between State and local projects may continue. Application of the State's selection process would be within these two categories.

4. *Public Participation.* The public participation program developed by the State in accordance with 630.1.5a(4) shall include provisions for insuring that the preparation and revision of the project selection process and priority rating system are subject to public review and comment (including minority participation in this process) prior to their implementation. The use of public meetings, review by special interest groups, and advisory committees in this regard are encouraged.

5. *Implementation.* The State's open project selection process shall be prepared and submitted in writing to the appropriate regional office. Implementation and use of the open project selection process will be verified at least biennially as a condition of eligibility.

All States are encouraged to be in compliance with the requirements of this chapter by October 1, 1980. The requirements outlined in this chapter shall be operational for all States on or before October 1, 1981. For those States not having a project selection process conforming to these requirements by October 1, 1980, the State shall have prepared and submitted to the Regional Director a detailed plan of action for implementation of this chapter. Such plan of action shall at a minimum include:

A. Draft Open Project Selection Process;

B. A public participation schedule with respect to the draft process;

C. An implementation timetable giving expected dates that individual components of the State's Open Project Selection Process will be brought on line.

All components of the State's Open Project Selection Process shall be fully operational by October 1, 1981. Failure to implement the requirements of this chapter by October 1, 1981, may result in a suspension of a State's eligibility for L&WCF assistance.

6. *Use of Existing Processes.* Any State utilizing an existing process which accomplishes the goals of this part may submit a description of such process to the Regional Director for review and subsequent determination that the requirements of this part have been fulfilled.

Dated: October 26, 1981.

Russell E. Dickenson,
Director.

[FR Doc. 81-31981 Filed 11-4-81; 8:45 am]

BILLING CODE 4310-70-M

INTERNATIONAL COMMUNICATION AGENCY

Establishment of Advisory Committees

In accordance with Section 9(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App. I) and OMB Circular No. 63, Revised, Section 6a., I hereby certify that establishment of four advisory committees for the International Communication Agency is in the public interest in connection with the performance of duties imposed on the USICA by law.

The New Directions Advisory Committee will identify worldwide intellectual and other trends of interest to the policy-makers of USICA in their quest for new directions. It will also serve as an outside resource for evaluation of private sector research on long-term trends.

The Radio Program Advisory Committee will advise me and the Associate Director for the Voice of America on the various aspects of the production and content of the radio programs of the Voice of America.

The Book and Library Advisory Committee will advise me and consult with USICA to insure that the book and library programs are effective instruments for achieving Agency objectives and providing a comprehensive view of American knowledge, culture, and achievements. The Committee will also advise on methods of collaborating with the private sector to enhance the Agency's book and library programs.

The Radio Engineering Advisory Committee will advise me and the Associate Director for the Voice of America on the engineering aspects of Voice of America operations. The Committee, among other activities, will examine future VOA engineering requirements relating to the construction of transmitters and the development of technological trends.

Dated: October 29, 1981.

Charles Z. Wick,
Director.

[FR Doc. 81-31964 Filed 11-4-81; 8:45 am]

BILLING CODE 8230-01-M

INTERSTATE COMMERCE COMMISSION

Agricultural Cooperative; Notice to the Commission of Intent To Perform Interstate Transportation for Certain Nonmembers

Dated: October 30, 1981.

The following Notices were filed in accordance with section 10526(a)(5) of the Interstate Commerce Act. These rules provide that agricultural cooperatives intended to perform nonmember, non-exempt, interstate transportation must file the Notice, form BOP-102, with the Commission within 30 days of its annual meeting each year. Any subsequent change concerning officers, directors, and location of transportation records shall require the filing of a supplemental Notice within 30 days of such change. The name and address of the agricultural cooperative, the location of the records, and the name and address of the person to whom inquiries and correspondence should be addressed, are published here for interested persons. Submission of information that could have bearing upon the propriety of a filing should be directed to the Commission's Office of Consumer Protection, Washington, D.C. 20423. The Notices are filed in Ex Parte No. MC-75 (Sub No. 1) and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

Knouse Foods Cooperative, Inc.; Complete Legal Name of Cooperative Association or Federation of Cooperative Associations.

Peach Glen, PA 17306; Principal Mailing Address (Street No., City, State, and Zip Code).

Peach Glen, PA 17306; Where Are Records of your Motor Transportation Maintained (Street No., City, State and Zip Code).

William H. Horner, Peach Glen, PA 17306; Person To Whom Inquiries and Correspondence should be Addressed (Name and Mailing Address).

Agatha L. Mergenovich,
Secretary.

[FR Doc. 81-31921 Filed 11-3-81; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by special rule of the Commission's rules of practice, see 49 CFR 1100.251. Special Rule 251 was published in the Federal Register on December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the Federal Register issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. Applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative 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 a public need for the proposed operations and that it 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. This presumption shall not be deemed to exist where the application is opposed. 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 opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later become unopposed), appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

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".

Please direct status inquiries to the Ombudsman's Office, (202) 275-7326.

Volume No. OP1-293

Decided: October 27, 1981.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 146621 (Sub-5), filed October 19, 1981. Applicant: EUGENE GEORGE, d.b.a. EUGENE GEORGE TRUCKING SERVICE, Route 1, Box 14A, Oswego, KS 67356. Representative: William B. Barker, 641 Harrison Street, P.O. Box 1979, Topeka, KS 66601 (913) 234-0565. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizer, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S.

MC 153151 (Sub-1), filed October 16, 1981. Applicant: E. L. BOYLES AND S. K. BOYLES, d.b.a. SHORTGRASS TRANSPORTATION, 103 Choctaw, Clinton, OK 73601. Representative: G. Timothy Armstrong, 200 North Choctaw, P.O. Box 1124, El Reno, OK 73036 (405) 262-1322. Transporting *general commodities*, between Heaton, Laketon, Mobetie, Briscoe, and Allison, TX and Reydon, Mackie, Cheyenne, Strong City, Hammon, Butler and Stafford, OK, on the one hand, and, on the other, points in the U.S.

Note.—The purpose of this application is to substitute motor carrier service for abandoned rail carrier service.

MC 156191 (Sub-2), filed October 19, 1981. Applicant: RAYMOND COSSETTE TRUCKING, 2202 5th Ave. North, Fargo, ND 58102. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118 (612) 457-6889. Transporting for or on behalf of the United States Government, *general commodities except used household goods, hazardous or secret materials, and sensitive weapons and munitions*, between points in the U.S.

MC 158780, filed October 15, 1981. Applicant: NEVADA RED ENTERPRISES, P.O. Box 151360 (529 Gale Street), Salt Lake City, UT 84101. Representative: George William Davis, 4671 Storm Mountain Drive, Salt Lake City, UT 84107 (801) 266-4472. (1) As a *broker of general commodities* (except

household goods), and transporting (2) for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), (3) *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, (4) *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, and (5) *used household goods* for the account of the United States Government incident to the performance of a pack-and-crate service on behalf of the Department of Defense, between points in the U.S.

MC 158850, filed October 19, 1981. Applicant: RONALD HENRY, RR 2, Clinton, MO 64735. Representative: Ronald Henry (same address as applicant) (816) 885-3746. (1) As a *broker of general commodities* (except household goods), and transporting (2) *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S.

MC 158911, filed October 20, 1981. Applicant: CHARLES R. EVANS, JR. AND BARBARA J. EVANS, d.b.a. C & B TRUCKING CO. 6450 N. 78th Street, Scottsdale, AZ 85253. Representative: Charles H. Wickman, Suite 1435, 2 N. Riverside Plaza, Chicago, IL 60606, (312) 454-0220. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizer, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S.

Volume No. OPY-3-201

Decided: October 28, 1981.

By the Commission, Review Board No. 2, Member Carleton, Fisher, and Williams. (Member Fisher not participating.)

MC 52704 (Sub-295), filed October 13, 1981. Applicant: GLENN McCLENDON TRUCKING COMPANY, INC., P.O. Drawer "H", LaFayette, AL 36862. Representative: Archie B. Culbreth, 2200 Century Parkway, Suite 202 (404) 321-1765. As a *broker of general commodities* (except household goods), between points in the U.S.

MC 59444 (Sub-14), filed October 16, 1981. Applicant: WALLER TRUCK CO.,

INC., Route 2, Box 5900, Richmond, MO 64085. Representative: Patrick K. McMonigle, Suite 600 Midland Bldg., 1221 Baltimore Ave., Kansas City, MO 64105 (816) 221-1464. Transporting for or on behalf of the U.S. Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S.

MC 82044 (Sub-3), filed October 16, 1981. Applicant: ILLIANA MOTOR SERVICE, INC., 4431, South Halsted St., Chicago, IL 60609. Representative: Harold L. Tatro (same address as applicant) (312) 268-7021. Transporting for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S.

MC 158845 filed October 16, 1981. Applicant: JERRY SMITH, d.b.a. JERRY SMITH TRANSFER, P.O. Box 69, Magnolia St., Geneva, GA 31810. Representative: F. Lee Champion, III, P.O. Box 2525, Columbus, GA 31902 (404) 324-4477. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S.

MC 158884, filed October 19, 1981. Applicant: GERALD H. POULSEN, d.b.a. H. D. TRANSFER, P.O. Box 16318, Salt Lake City, UT 84116. Representative: Irene Warr, 311 S. State St., Suite 280, Salt Lake City, UT 84111 (801) 531-1300. Transporting for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S.

MC 158914, filed October 21, 1981. Applicant: J.T.D. ENTERPRISES, INC., 2223—81st St., Kenosha, WI 53140. Representative: Jean M. Rumachik (same address as applicant) (414) 697-0262. As a *broker of general commodities* (except household goods), between points in the U.S.

Volume No. OPY-5-188

Decided: October 27, 1981.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 22179 (Sub-29), filed October 7, 1981. Applicant: FREEMAN TRUCK LINE, INC., 419 Jackson Ave., Oxford, MS 38655. Representative: Douglas C. Wynn, P.O. Box 1295, Greenville, MS 38701, (601) 335-3576. Transporting

general commodities between Alcorn, Barland, Bonus, burnella, Busy Corner, Clark, Coles, Church Hill, Dolorosa, Dorrington, Elmo, Eunice, Fayette, Flat Rock, Franklin, Garden City, Gordon, Hamburg, Harriston, Homochitto, Ireland, Kingston, Knoxville, Lorman, McBride, McNair, Melton, Oldenburg, O'Neil, Pattison, Peyton, Possum Corner, Red Lick, Rodney, Rosette, Russum, Stonington, Tillman, Union Church, Violet, Westside, White Apple, MS, on the one hand, and, on the other, points in the U.S. Condition: Approval of this authority is conditioned upon applicant certifying to the Commission, prior to commencing operations, that all rail service has actually terminated at all of the involved points.

Note.—Applicant intends to tack the authority sought herein with its regular route authority contained in MC 22179 and subs thereunder. The sole purpose of this application is to substitute motor carrier service for completely abandoned rail service.

MC 123279 (Sub-12), filed October 14, 1981. Applicant: CHARTER EXPRESS, INC., 8418 Talmadge Rd., Ravenna, OH 44266. Representative: William P. Jackson, Jr., 3426 N. Washington Blvd., P.O. Box 1240, Arlington, VA 22210, 703-525-4050. Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, and commodities in bulk), between points in Heath, Hebron and National Road, OH, on the one hand, and, on the other, points in the U.S.

Note.—The sole purpose of this application is to substitute motor carrier service for completely abandoned rail service.

MC 142059 (Sub-181), filed October 14, 1981. Applicant: CARDINAL TRANSPORT, INC., 1230 Northern Illinois Drive, Channahon, IL 60410. Representative: Jack Riley (same address as applicant), (815) 729-3808. Transporting *general commodities*, between Driggs and Victor, ID, Biggs, Easton, Poplar City, Teheran and Winnebago, IL, Ayrshire, Curlew, Langdon, Sperry and Terill, IA, Belcher, Gilliam and Hosston, LA, Barrows, Crow Wing, Downer, Ft. Ripley and Topeka, MN, Carpenter, Fayette, Franklin, Harriston, Hermanville, Knoxville, Learned, Lorman, McNair, McRaven, Oakley, Raymond, Rosetta, Russum, Utica and White Apple, MS, Nemaha and Shubert, NE, Hobgood and Oak City, NC, Ashwood, Barton and Lena, SC, and Dodge and Pomeroy, 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 service for abandoned rail service.

MC 158778, filed October 14, 1981. Applicant: JOLAR BROKERAGE CO., 101 Fairmont Ave., Worcester, MA 01604. Representative: Joseph F. LaRoche Jr. (same address as applicant), (617) 753-0179. As a *broker of general commodities* (except household goods), between points in the U.S.

MC 158779, filed October 15, 1981. Applicant: LARRY D. CARRIVEAU, 2254 Russell Road, Kent, WA 98031. Representative: James T. Johnson, 1610 IBM Bldg., Seattle, WA 98101, (206) 624-2832. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S.

MC 158788, filed October 14, 1981. Applicant: McTODD TRUCKING INC., 971 Avondale Ave., Cincinnati, OH 45229. Representative: Edward F. Carter (same address as applicant), (513) 281-3755. Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S.

MC 158789, filed October 14, 1981. Applicant: BRIAN B. BABER d.b.a. M. T. FARMS, P.O. Box 279, Clinton, IN 47842. Representative: John F. Wickes, Jr., 1301 Merchants Plaza, Indianapolis, IN 46204, (317) 638-1301. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S.

Volume No. OPY-5-190

Decided: October 28, 1981.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 129378 (Sub-4), filed October 21, 1981. Applicant: JENNINGS TRUCKING SERVICE, INC., Route 1, Box 72, Gotebo, OK 73041. Representative: Michael H. Lennox, 531 N. Portland, P.O. Box 75613, Oklahoma City, OK 73147, 405-943-2722. Transporting for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S.

MC 158808, filed October 14, 1981. Applicant: PETER H. HARWOOD, P.O. Box 252, Monsoon, MA 01057. Representative: Edward T. Dangel, III,

Sixty State St., Boston, MA 02109, 617-227-8200. As a *broker of general commodities* (except household goods), between points in the U.S.

MC 158838, filed October 16, 1981. Applicant: YELLOW CAB CO. OF LOUISVILLE, 1601 S. Preston St., P.O. Box 2127, Louisville, KY 40201. Representative: William L. Willis, Suite 708, McClure Bldg., Frankfort, KY 40601, (502) 227-7384. 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 158918, filed October 21, 1981. Applicant: BATTERY MARITIME CORP. d.b.a. BATTERY BROKERS & FORWARDERS, P.O. Drawer J, Charleston, SC 29402. Representative: William P. Jackson, Jr., P.O. Box 1240, Arlington, VA 22210, (703) 525-4050. To operate as a *broker of general commodities* (except household goods), between points in the U.S.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-31928 Filed 11-3-81; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions, Decision-Notice

The following applications, filed on or after February 1981, are governed by special rule of the Commission's rules of practice, see 49 CFR 1100.251. Special Rule 251 was published in the Federal Register of December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the Federal Register issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative 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 controls, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that 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. This presumption shall not be deemed to exist where the application is opposed. 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 opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

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".

Please direct status inquiries to the Ombudsman's Office, (202) 275-7326.

Volume No. OPI-292

Decided: October 27, 1981.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 2421 (Sub-39), filed October 20, 1981. Applicant: NEWTON TRANSPORTATION COMPANY, INC., 510 Greer Circle, S.W., P.O. Box 678, Lenoir, NC 28645. Representative: Edward G. Villalon, 1032 Pennsylvania Bldg., Pennsylvania Ave. & 13th St., N.W., Washington, DC 20004. (202) 628-4600. Transporting *chemicals and related products and rubber and plastic products*, between points in Franklin County, OH, on the one hand, and, on the other, points, in TN, VA and WV.

MC 10761 (Sub-289), filed October 19, 1981. Applicant: TRANSAMERICAN FREIGHT LINES, INC., 2843 East Paris

Road, S.E., Grand Rapids, MI 49501. Representative: A. David Millner, 167 Fairfield Road, P.O. Box 1409, Fairfax, NJ 07006, (201) 575-7700. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk) between points in the U.S. (except AK and HI).

MC 117850 (Sub-6), filed October 16, 1981. Applicant: J. B. KENNEDY, RR #3, Brookfield, MO 64628. Representative: Edward A. O'Donnell, 1004 29th St., Sioux City, IA 51104, (712) 255-3127. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S., under continuing contract(s) with Morton-Norwich Products, Inc., Morton Salt Division, of Chicago, IL, Independent Salt Co., of Kanapolis, KS, Cargill Salt Co., of Hutchinson, KS, and Farmers Feed and Supply Co., Inc., of Boyden, IA.

MC 121470 (Sub-86), filed October 2, 1981. Applicant: TANKSLEY TRANSFER COMPANY, 801 Cowan St., Nashville, TN 37207. Representative: Helen Jones (same address as applicant), (615) 244-7417. Transporting *general commodities* (except classes A and B explosives) between points in SC, on the one hand, and, on the other, points, in the U.S. (except AK and HI).

MC 123601 (Sub-4), filed October 19, 1981. Applicant: E & F TRUCKING, INC., 445 Winding Road, Old Bethpage, NY 11804. Representative: Roy A. Jacobs, 550 Mamaroneck Ave., Harrison, NY 10528, (914) 835-4411. Transporting *metal products*, between points in the U.S., under continuing contract(s) with Grumman Energy Systems, Co., of Melville, NY.

MC 128761 (Sub-6), filed October 19, 1981. Applicant: RICHARD M. GODFREY, 8530 Kingscove Dr., Salt Lake City, UT 84121. Representative: Irene Warr, 311 S. State St., Ste. 280, Salt Lake City, UT 84111, (801) 531-1300. Transporting *metal products*, between points in the U.S., under continuing contract(s) with Micronutrients International, Inc., of Tooele, UT.

MC 135170 (Sub-61), filed October 19, 1981. Applicant: TRI-STATE ASSOCIATES, INC., P.O. Box 188, Federalsburg, MD 21632. Representative: James C. Hardman, 33 N. LaSalle St., Chicago, IL 60602, (312) 236-5944. Transporting *such commodities* as are dealt in or used by manufacturers of containers, packaging materials, glassware, and cutlery products, between points in the U.S.

MC 136771 (Sub-11), filed October 21, 1981. Applicant: HI-WAY TRANSIT, INC., Route #1, Cedar Grove, WI 53013.

Representative: Richard A. Westley, 4506 Regent Street, Suite 100, P.O. Box 5086, Madison, WI 53705-0086, (608) 238-3119. Transporting *food and related products*, between points in IL, MN, and WI, on the one hand, and, on the other, points in the U.S.

MC 145230 (Sub-10), filed October 16, 1981. Applicant: H & S MOTOR LINES, INC., P.O. Box 248, Wesson, MS 39191. Representative: Donald B. Morrison, P.O. Box 22628, Jackson, MS 39205, (601) 948-8820. Transporting *chemicals and related products*, between points in Claiborne County, MS, on the one hand, and, on the other, points in New Haven County, CT, and Hampshire County, MA.

MC 145480 (Sub-3), filed October 21, 1981. Applicant: ED WOLFE TRUCKING, INC., 20425 Ahha Lane, Bend, OR 97701. Representative: Philip G. Skofstad, Logus Block, 529 S.E. Grand Ave., Portland, OR 97214, (503) 239-4157. Transporting (1) *chemicals and related products*, (a) between points in Caribou County, ID, on the one hand, and, on the other, points in OR, WA and Lassen, Modoc and Siskiyou Counties, CA, and (b) between points in Canyon County, ID, on the one hand, and, on the other, points in OR, WA, NV, and Lassen, Modoc and Siskiyou Counties, CA, and (2) *clay, concrete, glass or stone products*, between points in Spokane and King Counties, WA, on the one hand, and, on the other, points in OR and Lassen, Modoc and Siskiyou Counties, CA.

MC 145750 (Sub-4), filed October 19, 1981. Applicant: C. S. TRUCK SERVICE, 930 Caroline Street, O'Fallon, IL 62269. Representative: Charles Sizemore (same address as applicant), (618) 624-3889. Transporting *foodstuffs and restaurant supplies*, between points in the U.S., under continuing contract(s) with P.F.D. Supply Corp. Div. of Prairie Farms Dairy, Inc., of Granite City, IL.

MC 145940 (Sub-4), filed October 19, 1981. Applicant: DIXIE REFRIGERATED, INC., P.O. Box 2183, Mobile, AL 36601. Representative: James David Mills, P.O. Box 2664, Mobile, AL 36652, (205) 432-0701. Transporting (1) *canned goods, frozen foods, wine and potato products*, between points in CA, WA, OR, ID, UT, NV, CO and NM, on the one hand, and, on the other, points in AL, MS, LA, SC, GA and FL, and (2) *concentrated citrus products*, between points in FL, on the one hand, and, on the other, points in AL, MS, LA, SC, GA, CA, WA, OR, ID, UT, NV, CO and NM.

MC 145991 (Sub-1), filed October 19, 1981. Applicant: HARRISON-NICHOLS CO., LTD., 5265 N. 4th Street, Irwindale,

CA 91706. Representative: William J. Monheim, P.O. Box 1756, Whittier CA 90609 (213) 945-2745. Transporting *commodities in bulk*, between points in the U.S. under continuing contract(s) with Kerr Glass Manufacturing Corp. of Sand Springs, OK, and Ball Corporation of El Monte, CA.

MC 146440 (Sub-11), filed October 16, 1981. Applicant: BOSTON CONTRACT CARRIER, INC., 34 Market Street, Everett, MA 02149. Representative: Alan Bernson, Suite 32, 34 Market Street, Everett, MA 02149 (617) 389-5207. Transporting *general commodities* (except classes A and B explosives), between points in RI, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 146600 (Sub-5), filed September 30, 1981. Applicant: K & J TRUCKING, INC., 2808 West Sixth Street, Sioux Falls, SD 57104. Representative: David Koch (same address as applicant) (605) 332-5531. Transporting *general commodities* (except classes A and B explosives, commodities in bulk, and household goods), between points in IL, KY, MI, OH, NY, TN, PA, WI, IN, OK, TX, NM, AZ and CA, on the one hand, and, on the other, points in KS, MN, MO, NE, ND, IA, IL, WI and SD.

MC 147121 (Sub-3), filed October 16, 1981. Applicant: YOUNGBLOOD TRUCKING CO., INC., P.O. Box 993, Branson, MO 65616. Representative: Harry Ross, 58 South Main St., Winchester, KY 40391 (606) 744-3503. Transporting *such commodities* as are dealt in or used by a manufacturer and distributor of wood and wood products, between points in the U.S. (except AK and HI).

MC 147570 (Sub-4), filed October 20, 1981. Applicant: KABAT EXPRESS, INC., 1944 Scranton Rd., Cleveland, OH 44113. Representative: Arthur E. Gogol, 7723 Greenwich Rd., Lodi, OH 44254 (216) 948-2531. Transporting *lift trucks, lift truck parts and attachments, and machine parts*, between points in Cuyahoga County, OH, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 150511 (Sub-3), filed October 16, 1981. Applicant: BETTER HOME DELIVERIES, INC., 3700 Park East Drive, Cleveland, OH 44122. Representative: J. A. Kundtz, 1100 National City Bank Bldg., Cleveland OH 44114 (216) 566-5639. Transporting *general commodities* (except classes A and B explosives, commodities in bulk, and household goods as defined by the Commission), between points in Maricopa County, AZ, on the one hand, and, on the other, points in AZ, CA, NM, NV, and those

points in that part of TX on and west of U.S. Hwy 83.

MC 151181 (Sub-1), filed October 20, 1981. Applicant: DAKOTA TRANSPORT, INC., Box 115, Ft. Pierre, SD 57532. Representative: Michael F. Morrone, 1150 17th St., N.W., Suite 1000, Washington, DC 20036 (202) 457-1124. Transporting *beer*, between points in the U.S., under continuing contract(s) with Ellwein Bros., Inc., of Pierre, SD.

MC 152200, filed October 16, 1981. Applicant: C.M.W., INC., d.b.a. WILDOU TRUCKING, 1370 Sheffield, Houston, TX 77015. Representative: D. McKinney (same address as applicant) (713) 453-8800. Transporting *oilfield machinery, valves, supplies, and accessories*, between points in the U.S., under continuing contract(s) with Sella Valve, Inc., of Houston, TX.

MC 152250 (Sub-1), filed October 19, 1981. Applicant: WHITE TRANSPORT INC., P.O. Box 2063, Sheridan, WY 82801. Representative: Charles A. Murray, Jr., 2822 Third Ave. N., Billings, MT 59101 (406) 252-4165. Transporting *malt beverages*, between points in St. Louis County, MO, Ramsey County, MN, Multnomah County, OR, and Denver County, CO, on the one hand, and, on the other, points in Sheridan County, WY.

MC 152250 (Sub-2), filed October 19, 1981. Applicant: WHITE TRANSPORT, INC., 133 Canfield St., Sheridan, WY 82801. Representative: Charles A. Murray, Jr., 2822 Third Ave. N., Billings, MT 59101 (406) 252-4165. Transporting *lumber and wood products and agricultural machinery*, between points in MT and WY, on the one hand, and, on the other, points in WA, WI, MN, KS, CO, NE, IA, IL, CA, ID, MO, TN, KY, PA, OH, OR, IN, ND, SD, UT, TX, OK, MI, and MT.

MC 153601 (Sub-5), filed October 19, 1981. Applicant: ITO LTD., 121 West Doty St., Madison, WI 53703. Representative: Melvin M. Freese, 80 East Little Canada Rd., St. Paul, MN 55117 (612) 633-2661. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S., under continuing contract(s) with Big Stone, Incorporated, of Chaska, MN, Modern Merchandising, Inc., of Minnetonka, MN, and Donahue Enterprises, Inc., Super Valu Stores, Inc., and Home Brands, a Peavey Division, all three of Minneapolis, MN.

MC 153721 (Sub-3), filed October 21, 1981. Applicant: RAF TRANSPORT, INC., R. R. 5, Seymour, IN 46274. Representative: Constance J. Goodwin, Suite 800 Circle Tower, Five East Market

St., Indianapolis, IN 46204 (317) 634-8313. Transporting *food and related products*, between points in the U.S., under continuing contract(s) with Swift Independent Packing Company, of Chicago, IL.

MC 154440 (Sub-1), filed October 16, 1981. Applicant: PROTECTED SERVICES, INC., P.O. Box 8201, Shawnee Mission, KS 66208. Representative: Arthur J. Cerra, 2100 CharterBank Center, P.O. Box 19251, Kansas City, MO 64141 (816) 842-8800. Transporting *general commodities* (except classes A and B explosives, commodities in bulk, and household goods as defined by the Commission), between Kansas City, MO, on the one hand, and, on the other, points in IL.

MC 157640, filed October 16, 1981. Applicant: GRUMPY'S SERVICES, LTD., 2848 19th St., N.E., Calgary, Alberta, CD T2E 6Y9. Representative: Daniel O. Hands, 205 W. Touhy, Suite 200-A, Park Ridge, IL 60068 (312) 698-2235. Transporting *mercator commodities and motor vehicle parts*, between ports of entry on the international boundary line between the U.S. and Canada in AK, WA, ID, MT, ND, and MN, on the one hand, and, on the other, those points in the U.S. in and west of MN, IA, MO, AR and LA (including AK but excluding HI).

MC 158381, filed October 20, 1981. Applicant: YELLOW RIVER, INC., P.O. Box 1364, Auburndale, FL 33823. Representative: Elbert Brown, Jr., P.O. Box 1378, Altamonte Springs, FL 32701-1378 (305) 869-5936. Transporting *food and related products*, between points in the U.S., under continuing contract(s) with Nabisco, Inc., of East Hanover, NJ.

MC 158831, filed October 16, 1981. Applicant: L. W. ROACH CO., 1356 Chattahoochee Ave., N.W., Atlanta, GA 30318. Representative: John P. Tucker, Jr., 2200 Century Parkway, Suite 202, Atlanta, GA 30345 (404) 321-1765. Transporting *sugar, syrups and sweeteners*, between points in AL, FL, GA, KY, LA, MD, MS, NC, SC, TN, VA and WV.

MC 158861, filed October 19, 1981. Applicant: MORGAN TRAVEL SERVICE, P.O. Box 2019, San Antonio, TX 78297. Representative: Thomas F. Sedberry, P.O. Box 2023, Austin, TX 78768 (512) 472-8355. As a *broker* at San Antonio, TX, in arranging for the transportation of *passengers and their baggage*, in the same vehicle with passengers, in charter and special operations, between points in the U.S. (except AK and HI).

MC 158870, filed October 16, 1981. Applicant: BARTEL TRUCKING, 9465 South Sherwood Drive, Franklin, WI

53132. Representative: David N. Bartel (same address as applicant) (414) 421-5506. Transporting *pulp, paper and related products, rubber and plastic products, printed matter, batteries, building materials, and machinery*, between points in WI, on the one hand, and, on the other, points in IL, MN, NE, KS, MO, OK, TX, IN, CO, GA, NJ, NY, KY, OH, CA, IA, FL, NC, PA, CT, NH, MA, DE, and AL.

MC 158880, filed October 19, 1981. Applicant: JACK FRICKEY & PAUL FRICKEY, d.b.a. J & P TRUCK SERVICE, 802 1st St. South, Nampa, ID 83651. Representative: David E. Wishney, PO Box 837, Boise, ID 83701 (208) 336-5955. Transporting *building materials*, between points in AZ, CA, CO, ID, MT, NV, OR, UT, WA and WY.

MC 158880 (Sub-1), filed October 19, 1981. Applicant: JACK FRICKEY AND PAUL FRICKEY, d.b.a. J & P TRUCK SERVICE, 802 1st Street South, Nampa, ID 83651. Representative: David W. Wishney, P.O. Box 837, Boise, ID 83701, (208) 336-5955. Transporting *waste or scrap materials, not identified by industry producing*, between points in CA, ID, OR, UT and WA, on the one hand, and, on the other, points in AZ, CA, CO, ID, NV, MT, OR, UT, WA and WY.

MC 158891, filed October 19, 1981. Applicant: OHIO SECURITY SYSTEMS, INC., 2590 Elm Road, N.E., Warren, OH 44483. Representative: Thomas L. Old, 155 West Market Street, Warren, OH 44481 (216) 399-3555. Transporting *business documents and such commodities as are dealt in or used by designers and manufacturers of steel treatment and steel producing equipment*, between points in the U.S., under continuing contract(s) with Wean-United, Inc., of Pittsburgh, PA.

MC 158900, filed October 19, 1981. Applicant: HARVEY'S TOURS, INC., 4241 Veterans Memorial Blvd., Metairie, LA 70002. Representative: Charles J. Williams, P.O. Box 186, Scotch Plains, NJ 07076 (201) 322-5030. As a broker, at Metairie, LA, in arranging for the transportation of *passengers and their baggage*, in the same vehicle with passengers, in special and charter operations, between points in the U.S.

Volume No. OPY-2-209

Decided: October 28, 1981.

By the Commission, Review Board No. 1. Members Parker, Chandler, and Fortier.

W 1323 (Sub-26), filed October 15, 1981. Applicant: SAUSE BROS. OCEAN TOWING CO., INC., 700 N.E. Multnomah St., Portland, OR 97232. Representative: Alan F. Wohlstetter,

1700 K St., NW., Washington, DC 20006, (202) 833-8884. To operate as a contract carrier by water, (1) by self-propelled vessels and by non-self-propelled vessels with the use of separate towing vessels in the transportation of *general commodities*, between all ports and points on the Pacific Coast and tributary waterways, and (2) by towing vessels in the performance of general towage, between all ports and points on the Pacific and tributary waterways and between all ports and points on the Pacific and tributary waterways, on the one hand, and, on the other, all ports and points on the Gulf and Atlantic Coasts by way of the Panama Canal.

MC 16513 (Sub-29), filed October 16, 1981. Applicant: REISCH TRUCKING & TRANSPORTATION CO., INC., 1301 Union Ave., Pennsauken, NJ 08110. Representative: Russell R. Sage, P.O. Box 11278, Alexandria, VA 22312, (703) 750-1112. Transporting *general commodities (except household goods and classes A and B explosives)*, between points in the U.S., under continuing contract(s) with CertainTeed Corporation, Insulation Group, of Valley Forge, PA.

MC 107012 (Sub-751), filed October 19, 1981. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: Bruce W. Boyarko (same address as applicant), (219) 429-2224. Transporting *fireplaces*, between points in Becker County, MN, on the one hand, and, on the other, points in the U.S.

MC 111023 (Sub-10), filed October 15, 1981. Applicant: FLAME RITE CARRIERS, INC., 1282 Manheim Pike, Lancaster, PA 17601. Representative: Lonnie R. Boyd, 3927 East Newport Road, Gordonville, PA 17529, (717) 768-8248. Transporting *food and related products and metal products*, between points in the U.S.

MC 120843 (Sub-3), filed October 9, 1981. Applicant: STONE BELT FREIGHT LINES, INC., P.O. Box 281, Bloomington, IN 47401. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240, 317-846-6655. Transporting *general commodities (except household goods and commodities in bulk)*, between the facilities of United States Gypsum Company, at points in the U.S., on the one hand, and, on the other, points in the U.S. Conditions: The person or persons who appear to be engaged in common control of 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 to the Secretary's office. In order to expedite

issuance of any authority, please submit a copy of the affidavit or proof of filing the application(s) for common control to Team 2, Room 2379. 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 129563 (Sub-9), filed October 19, 1981. Applicant: ONONDAGA BEVERAGE TRANSPORT, INC., 345 Spencer St., Syracuse, NY 13204. Representative: Freeda Harvey (same address as applicant), (315) 471-5092. Transporting *malt beverages*, between points in the U.S., under continuing contract(s) with Seneca Beverage Corp., of Elmira Heights, NY.

MC 140852 (Sub-9), October 16, 1981. Applicant: C. W. MITCHELL, INC., d.b.a. MITCHELL TRANSPORT, 4401 N. Westshore Blvd., Tampa, FL 33684. Representative: Rudy Yessin, P.O. Drawer B, Frankfort, KY 40602, (502) 227-7326. Transporting (1) *animal feed, feed ingredients, supplements, and additives*, (a) between points in OH, IL, CA, and UT, on the one hand, and, on the other, points in the U.S., and (b) between points in OH, IL, CA, and UT; and (2) *inedible food*, between points in SD and MN, on the one hand, and, on the other, points in GA, AL, FL, MA, RI, NY, NJ, DE, PA, ND, WV, VA, NC, and SC.

MC 146213 (Sub-13), filed October 19, 1981. Applicant: JAMES P. DOYLE, d.b.a. J. DOYLE TRUCKING, P.O. Box 76, Wisconsin Dells, WI 53965. Representative: Stanley C. Olsen, Jr., 5200 Willson Rd., Suite 307, Edina, MN 55424, (612) 927-8855. Transporting *food and related products*, between points in the U.S.

MC 150053 (Sub-3), filed October 19, 1981. Applicant: JERRY BELL, R.R. #2, P.O. Box 6, Columbus Junction, IA 52738. Representative: Larry D. Knox, 600 Hubbell Bldg., Des Moines, IA 50309. Transporting *food and related products*, between the facilities of the Rath Packing Company, at points in the U.S., on the one hand, and, on the other, points in the U.S.

MC 151142 (Sub-6), filed October 5, 1981. Applicant: H & H TRANSPORTATION, INC., 1425 E. Main St., Newark, OH 43035. Representative: H. Neil Garson, 3251 Old Lee Highway, Fairfax, VA 22030, (703) 691-0900. Transporting *furniture, and such commodities as are dealt in or used in the manufacture of furniture* between points in Luzerne County, PA, on the one hand, and, on the other, points in IL, IN, MI, and OH.

MC 156672, filed October 13, 1981. Applicant: COMMERCIAL TRUCKING COMPANY, INC., 1939 Herbert Ave., Laurel, MS 39440. Representative: Jerry H. Blount, 213 S. Lamar St., Suite 200, Jackson, MS 39201, 601-354-1608. Transporting *steel storage tanks*, between Laurel, MS, on the one hand, and, on the other, points in AL, AR, FL, GA, KY, LA, TN, TX, and WV.

MC 158593, filed October 2, 1981. Applicant: DOYLE G'FELLERS, d.b.a. G'Fellers Trucking Company, Route 3, Box 72, Chuckey, TN 37641. Representative: Doyle G'Fellers (same as applicant), (615) 638-8229. Transporting *wood and wood products*, and *farm machinery* between points in the U.S., under continuing contract(s) with (a) Hodges Ford Tractor Company, Inc., of Mountain City, TN, (b) Sanders Equipment Company, Inc., of Johnson City, TN, (c) W. W. Implement Sales, Inc., of Greeneville, TN, (d) Cherokee wood Preservers, Inc., of Masheim, TN, and (e) Cox Ford Tractor Co., Inc., of Kingsport, TN.

MC 158832, filed October 16, 1981. Applicant: KIM G. MEYER and MARK S. GRAY, d.b.a. ALL-STATES RELOCATION SERVICE, 18 Vista Square, Atlanta, GA 30327. Representative: Mark S. Gray (same address as applicant), (404) 352-0632. As a broker, in arranging for the transportation, by motor vehicle, of *household goods*, between points in GA, on the one hand, and, on the other, points in the U.S.

MC 158842, filed October 16, 1981. Applicant: DON KEENE, d.b.a. D & K TRUCKING CO., 1232 W. Chestnut, Centralia, WA 98531. Representative: Henry C. Winters, 525 Evergreen Building, Renton, WA 98005-3259, (206) 235-4730. Transporting (1) *lumber, wood products and building materials* between points in AZ, CA, CO, ID, MT, NV, NM, OR, TX, UT, WA & WY; and (2) *such commodities* as are dealt in by agricultural cooperative associations between points in OR and WA.

Volume No. OPY-5-186

Decided: October 26, 1981.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 114098 (Sub-61), filed September 25, 1981. Applicant: LOWTHER TRUCKING COMPANY, INC., P.O. Box 3117, C.R.S., Rock Hill, SC 29731-3117. Representative: Lawrence E. Lindeman, 1032 Pennsylvania Bldg., Pennsylvania Ave. & 13th St., NW., Washington, DC 20004, (202) 628-4600. Transporting *metal products* between points in the U.S. under continuing contract(s) with Reeves Southeastern Corporation of

Tampa, FL, and Wheeling-Pittsburgh Steel Corporation of Pittsburgh, PA.

MC 141379 (Sub-6), filed October 7, 1981. Applicant: CALVIN C. HARTSFIELD, d.b.a. SOUTHSIDE AUTO, Highway 25 South, Highway 25 South, P.O. Box 161, Rt. 1, Malden, MO 63863. Representative: Joseph E. Rebman, 314 N. Broadway, Suite 1300, St. Louis, MO 63102, (314) 421-0845. Transporting *used automobiles, trucks and parts*, between points in FL, on the one hand, and, on the other, points in Adams, Cook, Madison, Lake, LaSalle, Peoria, St. Clair, Sangamon, Will, and Winnebago Counties, IL, Clay, Dunklin, Howell, Jackson, New Madrid, Platte, and St. Louis Counties, MO, Johnson and Leavenworth Counties, KS, Cass, Douglas, and Sarpy Counties, NE, Mills and Pottawattami Counties, IA, Eaton and Wayne Counties, MI, Dallas, Harris and Tarrant Counties, TX, Anoka, Hennepin, Ramsey and Washington Counties, MN, Coffee and Davidson Counties, TN, Craighead, Pope and Pulaski Counties, AR, and Sacramento, CA.

MC 143179 (Sub-25), filed October 2, 1981. Applicant: CNM CONTRACT CARRIERS, INC., P.O. Box 1017, Omaha, NE 68101. Representative: Foster L. Kent (same address as applicant), (712) 323-9124. Transporting (1) *packaging materials* and (2) *containers*, between points in the U.S., under continuing contract(s) with American Excelsior Company of Arlington, TX, Packaging Plus, Inc., of Minneapolis, MN, and Greif Bros. Corporation of St. Paul, MN.

MC 145779 (Sub-1), filed July 14, 1981, previously noticed in the Federal Register issue of August 3, 1981. Applicant: OIL SERVICE COMPANY, INC., Rt. 3, Petty Lane, Columbia, TN 38401. Representative: Edward C. Blank II, P.O. Box 1004, Columbia, TN 38401, (615) 388-3200. Transporting *toxic and hazardous waste materials*, between points in AL, AR, CT, FL, DE, GA, IL, IN, IA, KY, LA, MD, MA, MI, MN, MS, MO, NJ, NY, NC, OH, OK, PA, RI, SC, TN, TX, VA, WV, and WI. Condition: Any certificate issued in this proceeding to the extent it authorizes transportation of dangerous commodities shall be limited in point of time to a period expiring 5 years from the date of issuance of the certificate. Condition: Any certificate issued in this proceeding is subject to coincidental cancellation of certificate issued October 2, 1981, which authorizes the transportation of *toxic and hazardous waste materials*, between points in Morgan County, AL, and St. Clair County, IL, on the one hand, and, on the other, points in Alabama, Georgia, Indiana, Kentucky, Michigan,

North Carolina, Ohio, Pennsylvania, and Tennessee.

Note.—This republication broadens the territorial description as previously published August 3, 1981.

MC 152898, filed October 13, 1981. Applicant: JERSTEDT LUMBER CO., INC., Executive Office, #1 Harbor Mall, P.O. Box 279, Bellingham, WA 98225. Representative: George R. LaBissoniere, 15 S. Grady Way, Suite 233, Renton, WA 98055, (206) 228-3807. Transporting (1) *metal and metal products*, between points in Whatcom and King Counties, WA, on the one hand, and, on the other, Portland, OR, and points in CA and WA, and (2) *lumber and wood products*, between points in Whatcom County, WA, on the one hand, and, on the other, points in OR and WA.

MC 153758 (Sub-2), filed October 2, 1981. Applicant: LAMPMAN BROKERAGE, INC., d.b.a. MASTRO ENTERPRISES, 4233 Sierra Madre, Fresno, CA 93711. Representative: James A. Spiegel, Olde Towne Office Park, 6333 Odana Rd., Madison, WI 53719, (608) 273-1003. Transporting *ice cream products*, between points in the U.S., under continuing contract(s) with Woodbridge Sweets, Inc., of Woodbridge, NJ.

MC 155748, filed October 8, 1981. Applicant: PRESSON AND WARTHAN, INC., 211 West Main St., Waverly, VA 23890. Representative: Carroll B. Jackson, 1810 Vincennes Rd., Richmond, VA 23229, (804) 282-3809. Transporting (1) *chemicals and related products* and (2) *limestone*, between points in the U.S., under continuing contract(s) with Royster Company of Norfolk, VA.

MC 157608, filed September 29, 1981. Applicant: DANIEL W. LANG, d.b.a. DANDY INTERMODAL SERVICE, 601 E. General Robinson St., Pittsburgh, PA 15212. Representative: David W. Donley, 610 Smithfield St., Suite 400, Pittsburgh, PA 15222, (412) 471-6272. Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, and commodities in bulk), between points in DE, IL, IN, MD, MI, MO, NJ, NY, OH, PA, VA, and WV, on the one hand, and, on the other, those points in the U.S. in and east of KS, ND, NE, OK, SD, and TX.

MC 157638 (Sub-1), filed September 25, 1981. Applicant: KE-LE ENTERPRISES, P.O. Box 3571, Green Bay, WI 54303. Representative: Kenneth L. Matuszak (same address as applicant), (414) 433-9295. Transporting *steel*, between points in the U.S. under continuing contract(s) with Tectron Tube Div-Menco Corp., of DePere, WI, and Four Corporation, of Green Bay, WI.

MC 158628, filed October 5, 1981. Applicant: GLENN VAUGHN TRUCKING COMPANY, P.O. Box 42, Ft. Smith, AR 72902. Representative: Don Garrison, P.O. Box 1065, Fayetteville, AR 72002, (501) 521-8121. Transporting *food and related products*, between points in AR, on the one hand, and, on the other, points in the U.S.

Volume No. OPY-5-187

Decided: October 27, 1981.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 37378 (Sub-3), filed October 15, 1981. Applicant: SANDERS TRUCK LINE, INC., P.O. Box 352, Farmington, MO 63640. Representative: Neal A. Jackson, 1156 15th St., N.W., Washington, DC 20005, 202-223-6680. Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, and commodities in bulk), between points in Madison and St. Clair Counties IL on the one hand, and, on the other, points in St. Louis, Jefferson, Ste. Genevieve, Francois, Madison, Iron, Reynolds, Wayne, Butler, and Ripley Counties, MO.

MC 123649 (Sub-12), filed October 9, 1981. Applicant: MAGILL TRUCK LINES, INC., 211 West 53rd St. North, Wichita, KS 67204. Representative: Eugene W. Hiatt, 207 Casson Bldg., 603 Topeka Blvd., Topeka, KS 66603, (913) 232-7263. Transporting *meat, meat by-products, hides, offal products and packing house supplies*, between points in the U.S., under continuing contract(s) with Dubuque Packing Co., of Mankato, KS.

MC 141958 (Sub-28), filed October 14, 1981. Applicant: FEDCO FREIGHTLINES, INC., P.O. Box 546, Effingham, IL 82401. Representative: Loren King, (same address as applicant), (513) 541-6449. Transporting *household appliances, luggage, outdoor power equipment, lawn and garden tractors, garden tillers, chain saws and snow removal equipment*, between points in the U.S., under continuing contract(s) with Roper Corporation, of Kankakee, IL.

MC 143619 (Sub-10), filed October 13, 1981. Applicant: PALS BROS. TRUCKING, INC., R.F.D., Alexander, IA 50420. Representative: James M. Hodge, 1000 United Central Bank Bldg., Des Moines, IA 50309, (515) 243-6164. Transporting *chemicals*, between points in Wood County, TX, Polk County, GA, and Jefferson County, NE, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 143699 (Sub-6), filed October 15, 1981. Applicant: QUALITY CONTRACT CARRIERS, INC., 1009 West Edgewood Ave., Indianapolis, IN 46217. Representative: Donald L. Stern, Suite 610, 7171 Mercy Rd., Omaha, NE 68106, 402-392-1220. Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission and commodities in bulk) between points in the U.S. under continuing contract(s) with the Richardson Company of Des Plaines, IL.

MC 143739 (Sub-56), filed October 14, 1981. Applicant: SHURSON TRUCKING CO., INC., P.O. BOX 328, Albert Lea, MN 56007. Representative: Robert S. Lee, 1600 TCF Tower, 121 So. 8th Street, Minneapolis, MN 55402, (612) 333-1341. Transporting *food and related products*, between points in AL, AZ, AR, CA, CO, FL, GA, ID, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, MT, NE, NV, NM, NC, ND, OH, OK, OR, SC, SD, TN, TX, UT, WA, WI, and WY, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 148539 (Sub-1), filed October 14, 1981. Applicant: LINDO'S TOURS U.S.A., INC., 1886 U.S. 19 South, Clearwater, FL 33516. Representative: Richard M. Davis, Suite 320, Lewis State Bank Bldg., Tallahassee, FL 32301, (904) 222-5171. Transporting *passengers and their baggage* in same vehicle with passengers, in special and charter operations, beginning and ending at points in Collier, Hillsborough, Manatee, Pasco, Polk, Orange, Osceola, Charlotte, Lake, Lee and Sarasota Counties, FL, and extending to points in the U.S.

MC 154839, filed October 13, 1981. Applicant: CRAIG TRANSPORTATION, INC., 110 Shrewsbury Drive, Livingston, NJ 07039. Representative: Robert B. Pepper, 168 Woodbridge Ave., Highland Park, NJ 08904, (201) 572-5551. Transporting (1) *rubber and plastic products*, (2) *petroleum and coal products*, (3) *chemicals and related products*, (4) *metal products*, and (5) *heaters*, between points in New York, NY and Suffolk County, NY, on the one hand, and, on the other, points in CT, DE, IL, IN, MD, NJ, NY, OH, and PA.

MC 157118, filed October 13, 1981. Applicant: DIRK A. EINSWEILER AND KURT D. EINSWEILER, d.b.a. E & E TRUCKING, 12250 Norris Rd., Galena, IL 61036. Representative: Carl E. Munson, 469 Fisher Bldg., Dubuque, IA 52001, 319-557-1320. Transporting *building materials, foundry equipment, metal products*, between points in the U.S., under continuing contract(s) with Lemfco, Inc., of Galena, IL.

Volume No. OPY-5-189

Decided: October 28, 1981.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 5819 (Sub-3), filed October 21, 1981. Applicant: FLEMING TRANS. INC., 10 Donahue Lane, North Grafton, MA 01536. Representative: James F. Martin Jr., 8 W. Morse Rd., Bellingham, MA 02019, 617-906-2093. Transporting (1) *petroleum products*, between points in Norfolk, Barnstable, Suffolk, Middlesex, Bristol and Essex Counties, MA; Cumberland County, ME; Rockingham County, NJ; Providence and Newport Counties, RI; Hartford and New Haven Counties, CT, on the one hand, and, on the other, points in MA, RI, CT, ME, NH and VT; (2) *sand, gravel and stone*, between points in Providence County, RI, on the one hand, and, on the other, points in MA, CT, NH, VT, and ME.

MC 37049 (Sub-1), filed October 8, 1981. Applicant: ARROW BUS COMPANY, INC., 88 Main St., Garfield, NJ 07026. Representative: Edward F. Bowes, 167 Fairfield Rd., P.O. Box 1409, Fairfield, NJ 07006, (201) 575-7700. Over regular routes, transporting *passengers and their baggage and express and newspapers* in the same vehicle with passengers, between junction Kingsland Rd. and Bloomfield Ave., over Bloomfield Ave. to High St., then over High St. and Station Plaza to Franklin Ave., then over Franklin Ave. to Center St., then over Center St. to Washington Ave., then over Washington Ave. to Park Avenue, then over Park Ave. to the Passaic River Bridge to Kingsland Ave. in Lyndhurst, then over Kingsland Ave. to Stuyvesant Ave., then over Stuyvesant Ave. to Valley Brook Ave., then over Valley Brook Ave. to Ridge Rd. (also from junction Stuyvesant and Kingsland Aves., over Kingsland Ave. to Ridge Rd., then over Ridge Rd. to Valley Brook Ave.) then over Ridge Rd. to Rutherford Ave. in Rutherford, then over Rutherford Ave. to NJ Hwy 3 (portion formerly NJ Hwy S-3), then over NJ Hwy 3 to the Depressed Hwy and Marginal St., then over the depressed Highway and Marginal St. to junction Palisade Ave. in Union City, NJ, then via the overhead ramp to Lincoln Tunnel Plaza (or from junction NJ Hwy 3, also known as Depressed and Marginal Hwy and Marginal St., with Hudson County Boulevard, over Hudson County Boulevard to junction 32nd St. in Union City, then over 32nd St. to junction New York Ave., then over New York Ave. to junction Marginal St., then over Marginal St. to junction Hudson Ave., then via the overhead ramp to Lincoln

Tunnel Plaza), and then through the Lincoln Tunnel to New York, and return over the same route, serving intermediate points between junction Kingsland Rd. and Bloomfield Ave. in Nutley, NJ, and junction NJ Hwy 20 and NJ Hwy 3 (formerly junction NJ Hwy S-3 and NJ Hwy 3), in East Rutherford, NJ, inclusive, those on NJ Hwy 3 between junction NJ Hwy 20 and NJ Hwy 3 (formerly junction NJ Hwy S-3 and NJ Hwy 3), in East Rutherford, NJ, and the Secaucus-North Bergen boundary line and Union City, NJ.

MC 119639 (Sub-28), filed October 21, 1981. Applicant: INCO EXPRESS, INC., 1600 So. 124th St., Seattle, WA 98168. Representative: James T. Johnson, 1610 IBM Bldg., Seattle, WA 98101, 206-824-2832. Transporting *such commodities* as are dealt in by grocery and food business houses, between points in WA, OR, CA, NV, ID, UT, AZ, MT, WY, CO, NM, ND, SD, NE, KS, OK, TX, MN, IA, MO, AR, WI, IL, IN, MI, OH, KY, TN, WV, VA, NC, SC, GA, FL, MD, DC, NY, PA, NJ and MA.

MC 143499 (Sub-12), filed October 16, 1981. Applicant: DOUBLE NICKLE TRANSPORT LTD, 4 Warehouse Lane, Elmsford, NY 10523. Representative: Roy A. Jacobs, 550 Mamaroneck Ave., Harrison, NY 10528, (914) 835-4411. Transporting *general commodities* (except household goods and classes A and B explosives), between points in the U.S., under continuing contract(s) with Research Polymers International Corp., of Grand Prairie, TX, and Sharp Electronic Corporation, of Paramus, NJ.

MC 143699 (Sub-7), filed October 16, 1981. Applicant: QUALITY CONTRACT CARRIERS, INC., 1009 West Edgewood Ave., Indianapolis, IN 42617. Representative: Donald L. Stern, Suite 610, 7171 Mercy Rd., Omaha, NE 68106, (412) 392-1220. Transporting *food and related products*, between points in the U.S., under continuing contract(s) with the Sysco Corp. and its fully owned subsidiary, Compton Foods Association, Ltd., both of Houston, TX.

MC 145108 (Sub-59), filed October 13, 1981. Applicant: BULLET EXPRESS, INC., P.O. Box 289, Bay Ridge Station, Brooklyn, NY 11220. Representative: Robert L. Van Buren, (same address as applicant), (212) 492-7332. Transporting *clay*, between points in the U.S., under continuing contract(s) with Oil Dri Corporation of America, of Chicago, IL.

MC 145629 (Sub-5), filed October 16, 1981. Applicant: FUCHS, INC., Rural Rt. 1, Box 576, Sauk City, WI 53583. Representative: Michael J. Wyngaard, 150 East Gilman St., Madison, WI 53703, (608) 256-7444. Transporting (1) *fertilizer*, (2) *fertilizer ingredients*, and

(3) *such commodities* as are dealt in or used by farm supply stores, between points in IA, IL, IN, MN, and WI.

MC 148479 (Sub-27), filed October 22, 1981. Applicant: MIDWEST SOLVENTS COMPANY, INC., 1300 Main St., Atchinson, KS 66002. Representative: Kenneth E. Smith, (same address as applicant), (913) 367-1480. Transporting *alcohol and alcoholic beverages* between points in the U.S., under continuing contract(s) with Hirman Walker & Sons, Inc., of Fort Smith, AR.

MC 152509 (Sub-16), filed October 21, 1981. Applicant: CONTRACT TRANSPORTATION SYSTEMS CO., 1370 Ontario St., P.O. Box 5856, Cleveland, OH 44101. Representative: J. L. Nedrich (same address as applicant), 216-566-2877. Transporting *general commodities* (except classes A and B explosives), between points in the U.S. (except AK and HI) under continuing contract(s) with Scott Paper Company of Philadelphia, PA.

MC 155238 (Sub-2), filed October 14, 1981. Applicant: EVAN F. SITTON d.b.a. E. SITTON TRUCKING, 2211 Whistlers Park Rd., Roseburg, OR 97470. Representative: Evan F. Sitton (same address as applicant), 503-672-2767. Transporting *metal buildings parts and accessories*, between points in Tulare, Stanislaus and San Joaquin Counties, CA on the one hand, and, on the other, points in OR and WA; and between Marion County, OR on the one hand, and, on the other, points in Alameda, Kern, Shasta, Sacramento, Stanislaus, Tulare and Tehama Counties, CA; Ada, Latah, Nez Perce, and Canyon Counties, ID; Washoe and Clark Counties, NV and points in WA. (2) *lumber and wood products*, between points in OR and WA on the one hand, and, on the other, points in CA, NV, UT and CO. (3) *scrap paper*, between points in CA on the one hand, and, on the other, points in OR.

MC 155738 (Sub-1), filed October 21, 1981. Applicant: ARIES TRANSPORTATION SYSTEM, INC., Rural Route 1, Spring Valley, IL 61362. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh St. NW., Washington, DC 20001, 202-628-9243. Transporting *chemicals and related products*, and *rubber and plastic products*, between Chicago, IL and points in Peoria and Grundy Counties, IL; Licking County, OH; Blue Earth County, MN; and Worcester County, MA, on the one hand, and, on the other, points in the U.S.

MC 156498, filed October 16, 1981. Applicant: MORRIS W. VICE, d.b.a. ROYAL GREAT LAKES TOURS, 2008 West Goguoac St., Battle Creek, MI 49015. Representative: William R. Ralls, 118

West Ottawa St., Lansing, MI 48933, (517) 372-6622. Transporting *passengers and their baggage* in same vehicle with passengers, in round-trip special and charter operations, between points in Calhoun County, MI, on the one hand, and on the other, points in the U.S.

MC 158299, filed October 13, 1981. Applicant: BURGESS TRANSPORT, INC., 1065 East 21st St., Hialeah, FL 33013. Representative: Richard B. Austin, 320 Rochester Bldg., 8390 NW 53rd St., Miami, FL 33166, (305) 592-0036. Transporting (1) *general commodities* (except classes A and B explosives, household goods as defined by the Commission, and commodities in bulk), between New York, NY, and points in Dade County, FL, on the one hand, and, on the other, Chicago, IL, and points in FL, GA, SC, NC, VA, TN, and OH, and (2) *textile mill products, leather and rubber goods*, between New York, NY, and Chicago, IL, and points in FL, GA, SC, NC, and VA.

MC 158629, filed October 15, 1981. Applicant: ROBERT E. BERNARD AND DANNY A. BERNARD d.b.a. BERNARD TRUCKING, 1500 Tapaz, Missoula, MT 59801. Representative: William S. Seliski, 2 Commerce St., P.O. Box 8255, Missoula, MT 59807, 406-543-8369. Transporting (1) *food and related products*, between points in the U.S. under continuing contract(s) with Frontier Coors Distributors, Inc., and Ralston Wine Co., both of Kalispell, MT, and John R. Daily, Inc., of Missoula, MT, and (2) *barite* between points in the U.S. under continuing contract(s) with Montana Barite Co., Inc. of Missoula, MT.

MC 158818, filed October 13, 1981. Applicant: BOB BOYD, d.b.a. BOB BOYD TRUCKING, 417 North M. Livingston, MT 59047. Representative: Charles A. Murray, Jr., 2822 Third Ave. N., Billings, MT 59101, 406-252-4165. Transporting *lumber and wood products*, between points in Park County, MT, on the one hand, and, on the other, points in ND, SD, MN, WI, IL, IA, NE, KS, OK, MO, TX, CO, WY, CA, AZ, NM, IN, OH, MI and OR.

MC 158848, filed October 16, 1981. Applicant: CHARLES L. MILLER, d.b.a. C. L. MILLER TRUCKING, 135 North Green Lane, Zelienople, PA 16063. Representative: Michael A. Wargula, 2550 Main Place Tower, Buffalo, NY 14202, (716) 845-6066. Transporting *chemicals and related products* between points in the U.S., under continuing contract(s) with Nalco Chemical Company, Inc., of Oak Brook, IL.

MC 158908, filed October 20, 1981. Applicant: SPRINT, INC., P.O. Box 233,

Forest, VA 24551. Representative: Michael D. Bromley, 4317 South 35th St., Arlington, VA 22206, 703-820-2240. Transporting *printed matter*, between points in the U.S.

MC 158909, filed October 20, 1981. Applicant: EDWARD G. ALBERINO, JR. d.b.a. E.G.A. FOOD DISTRIBUTORS, 63 Carlson Rd., West Haven, CT 06516. Representative: Michael A. Wargula, 2550 Main Place Tower, Buffalo, NY 14202, 716-845-6068 Transporting *food and related products*, between points in the U.S. under continuing contract(s) with Lender's Bagel Bakery, Inc. of West Haven, CT., and Pasquale Quality Foods, Inc. of Milford, CT.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 81-31929 Filed 11-3-81; 8:45 am]

BILLING CODE 7035-01-M

[Permanent Authority Decisions Volume No. 191]

Motor Carriers; Permanent Authority Restriction Removals; Decision-Notice

Decided: October 28, 1981.

The following restriction removal applications, filed after December 28, 1980, are governed by 49 CFR Part 1137. Part 1137 was published in the *Federal Register* of December 31, 1980, at 45 FR 86747.

Persons wishing to file a comment to an application must follow the rules under 49 CFR 1137.12. A copy of any application can be obtained from any applicant upon request and payment to applicant of \$10.00.

Amendments to the restriction removal applications are not allowed. Some of the applications may have been modified prior to publication to conform to the special provisions applicable to restriction removal.

Findings

We find, preliminarily, that each applicant has demonstrated that its requested removal of restrictions or broadening of unduly narrow authority is consistent with 49 U.S.C. 10922(h). In the absence of comments filed within 25 days of publication of this decision-notice, appropriate reformed authority will be issued to each applicant. Prior to beginning operations under the newly issued authority, compliance must be made with the normal statutory and regulatory requirements for common and contract carriers.

By the Commission, Restriction Removal Board, Members Sporn, Ewing, and Shaffer. Agatha L. Mergenovich,
Secretary.

MC 36509 (Sub-37)X, filed September 24, 1981. Applicant: LOOMIS ARMORED CAR SERVICE, INC., 832 Sansome Street, San Francisco, CA 94111. Representative: Eugene C. Crew, One California St., San Francisco, CA 94111. Sub-No. 36 permit, broaden the territorial description to authorize "between points in the U.S.," under continuing contracts with unnamed shippers.

MC 94570 (Sub-7)X, filed October 9, 1981. Applicant: DEAN RESLER, P.O. Box 309, Sterling, CO 80751. Representative: William J. Lippman, 50 South Steele St. #588, Denver, CO 80209. (1) lead certificate, broaden to: "machinery" from agricultural implements and parts, and pumps; "farm products" from feed, hay, grain and livestock; "coal and coal products" from coal; "transportation equipment" from truck bodies and racks; "lumber and wood products" from lumber; "meat products" from fencing; "building materials" from cement and roofing; (2) Sub-No. 1, broaden to "commodities in bulk" from liquid petroleum products, and petroleum and petroleum products, as defined in the *Descriptions case*; and remove the "in tank vehicles" restriction; (3) Sub-No. 6, delete restriction requiring that movement of shipments be from, to, or between warehouses, outlets, or food business houses; (4) broaden to county-wide authority: lead, Adams, Arapahoe, Denver, Douglas and Jefferson Counties, CO (Denver), and Cheyenne, Morrill and Garden Counties, NE (Dalton, NE and points with 20 miles thereof), and Larimer County, CO (Ft. Collins and Laporte); Sub No. 1, Cheyenne County, NE (Sidney, NE and points within 5 miles thereof), and Sedgewick County, CO (Julesburg); and Sub-No. 6, Otero County, CO (La Junta); (5) change to radial authority on irregular routes, and to two-way authority on regular routes; and (6) Sub-No. 1, authorize service at all intermediate points, and delete restrictions which specify "pickup or delivery only."

MC 124004 (Sub-69)X, filed August 3, 1981, previously noticed in the *Federal Register* of August 28, 1981 Applicant: RICHARD DAHN, INC., 620 West Mountain Road, Spark, NJ 07871. Representative: Richard W. Dahn (same address as applicant). Applicant seeks to remove restrictions in various certificates. Through inadvertence this Board failed to publish several of the requested territorial broadenings. Notice

is hereby given that applicant seeks to broaden cities to counties as follows: in Sub 19, from Kearny, NJ to Hudson, Essex, Union, Passaic, and Bergen Counties, NJ, and Queens, Brooklyn, Manhattan, Staten Island and Bronx Boroughs, NY; and in Sub 59, from Carlstadt, NJ to Bergen, Passaic, Hudson, and Essex Counties, NJ and the 5 above-named NY Boroughs.

MC 125724 (Sub-6)X, filed October 13, 1981. Applicant: SINGER TRANSPORT, INC., S-3030 Baker Road, Orchard Park, NY 14127. Representative: William J. Hirsch P.C., 1125 Convention Tower, 43 Court Street, Buffalo, NY 14202. Lead and Subs 3 and 4F permits, Broaden: lead, anti-friction devices, parts thereof, raw materials, and machinery (except commodities in bulk, in tank vehicles), to "machinery"; Sub 3, anti-friction devices to "machinery"; office supplies, equipment and records, to "furniture and fixtures, and office supplies and equipment"; Sub 4F, part (1) anti-friction devices to "machinery; and to between all points in the US under continuing contract(s) with named shippers.

MC 138018 (Sub-70)X, filed October 1, 1981. Applicant: RFI TRANSPORT, INC., 1420-33rd St., P.O. Box 17506, Denver, CO 80217. Representative: Jo Ann M. Harvey (same as above). Subs 3, 5, 8, 11, 16, 19, 23, 28, 31, 34, 36, 41F, 43F, 45F, 48F, 49F, 51F, 53F, 55F, 56, 57F, 58F, 59F, 60F, 61F, 62F and 63 certificates: (A) broaden to (1) "food and related products," from (a) meats, meat products, meat by-products, dairy products, articles distributed by meat packinghouses, and such commodities as are used by meat packers in the conduct of their business, Subs 3, 5, 11, 16, 18, 19, 28, 31, 34, 45, 48, 51, 55, 57 and 58; (b) frozen foods, Sub 43; (c) foodstuffs, Sub 59; (d) bananas, Sub 61; (2) "chemicals and related products," from cleaning, scouring, washing and polishing compounds, Sub 8 (in part) and 49; (3) "filters and chemicals and related products," from filters and cleaning, polishing, and scouring compounds, Sub 23; (4) "food and related products, chemicals and related products, tobacco products, and such commodities as are dealt in by distribution or consolidation warehouses," from foodstuffs, pharmaceutical materials, supplies and products, chemicals, alcoholic beverages, tobacco products, pet foods and such commodities as are dealt in by distribution or consolidation warehouses when moving in the same vehicle at the same time as commodities described above, Sub 36; (5) "lumber and wood products," from shakes,

shingles, ridges and shims, Sub 41; (6) "chemicals and related products, petroleum, natural gas and their products; rubber and plastic products, machinery, equipment and supplies, and containers and shipping devices," from chemicals, cleaning and polishing compounds, solvents, paints, gum resins, plastics, rubber and adhesives, paints, and reducing compounds, liquid plastics, defoaming compounds, brush and stencil marking ink, plastic sheets, machinery and parts, and empty containers, Sub 53; (7) "petroleum, natural gas and their products, and containers or shipping devices," from petroleum products in containers and empty petroleum products in containers and empty petroleum containers, Sub 63; (B) remove (1) all exceptions from the general commodities description, except classes A and B explosives, Subs 56 (sheets 4 and 5) and 60; (2) restriction prohibiting the transportation of (a) specified commodity, Sub 8; and (b) commodities moving in the same vehicle at the same time as other specified commodities, Subs 36 and 58; (3) "size or weight" restriction Sub 53; (4) "originating at and/or destined to" restriction, Subs 3, 5, 11, 16, 18, 19, 23, 28, 31, 34, 36, 45, 48, 51, 53, 55, 56, 57, 58 and 62; (5) "commodities in bulk, hides and/or in tank vehicles" restrictions, in all Subs except 41, 60, 61 and 63; (6) "vehicles equipped with mechanical refrigeration" restriction, Sub 36; (C) broaden to (1) county wide authority: (a) Boise and Ada Counties ID (facilities—Boise), Sub 3; (b) Potter and Randall Counties, TX (facilities—Amarillo), Sub 5; (c) Jefferson and Dodge Counties, WI (Watertown), Sub 8; (d) Moore County TX (facilities—Cactus), Sub 11; (e) Jefferson, Morgan, Adams, Arapahoe, Denver and Douglas Counties, CO (facilities—Arvada, Denver and Brush) and El Paso and Lubbock Counties, TX (El Paso and Lubbock), Sub 16; (f) Potter and Randall Counties, TX (facilities—Amarillo), Sub 18; (g) Saline County, NE (facilities—Crete), Sub 19; (h) Adams, Arapahoe, Denver, Jefferson, and Douglas Counties, CO (Denver), Sub 23 and 36; (i) Portage County, WI (facilities—Plover), Sub 43; (j) Ford County, KS (facilities—Dodge City), Sub 45; (k) Emmet County, IA, (facilities—Estherville); Woodbury County, IA, Dakota County, NE and Union County, SD (facilities—Sioux City, IA); and Nobles County, MN (facilities—Worthington), Sub 48; (l) Will County, IL (Joliet), Sub 49; (m) Carroll, Crawford, Hardin, Cherokee, Polk, Webster and Woodbury Counties, IA, Dakota County, NE and Union County, SD (facilities—Carroll, Denison, Iowa Falls, Cherokee,

Des Moines, Fort Dodge and Sioux City, IA); Lancaster County, NE (facilities—Lincoln); and Sarpy, Douglas and Washington Counties, NE, and Mills and Pottawattamie Counties, IA (facilities—Omaha, NE), Sub 51; (n) Cherokee and Buena Vista Counties, IA (facilities—Cherokee and Storm Lake), Sub 55; (o) Douglas, Washington, Martin, McLeod, Chisago, Brown, Pine and Anoka, Hennepin, Dakota, Ramsey, Scott and Carver Counties, MN (facilities—Alexandria, Cottage Grove, Fairmont, Hutchinson, Lindstrom, New Ulm, Pine City and St. Paul); Barron and Crawford Counties, WI (Cumberland and Prairie du Chien); Story County, IA (Ames); Greene County, MO (Springfield); Rock Island County, IL (facilities—Cordova); Marion County, IA (facilities—Knoxville); and Madison County, NE (facilities—Norfolk), Sub 56 (sheets 4 and 5); (p) Hancock and Cerro Gordo Counties, IA (facilities—Britt and Mason City), Sub 57; (q) Plymouth County, IA (Le Mars), Sub 58; (r) Delta County, CO (facilities—Delta), Sub 59; and, (s) Anoka, Hennepin, Washington, Dakota, Ramsey, Scott, and Carver Counties, MN (Minneapolis), Sub 63; and (2) radial authority all Subs except Subs 55, 57, 60 and 62.

MC 142279 (Sub-11)X, filed October 15, 1981. Applicant: RAY REICH, d.b.a. REICH TRUCKING COMPANY, Route 1, Box 133F, Forest Hill, LA 71430. Representative: Paul D. Angenend, P.O. Box 2207, Austin, TX 78768. Sub 8F permit: remove except bulk/tank vehicles restriction; and broaden to between points in the U.S., under continuing contract(s) with named shipper.

MC 144843 (Sub-6)X, filed October 21, 1981. Applicant: GRACE DISTRIBUTION SERVICES, INC., P.O. Box 308, Duncan, SC 29334. Representative: Paul M. Daniell, 235 Peachtree St., NE, Atlanta, GA 30303. Sub-No. 1F permit: broaden (1) polyester resins, chemicals, glass filter, brushes, sprayers, glycol, styrene, vinyl toluene, phthalic anhydride, maleic anhydride, materials, equipment, and supplies used in the manufacture, sale, and distribution thereof, to "such commodities as are dealt in by manufacturers of chemicals"; and (2) the territorial description to between all points in the U.S., under continuing contract(s) with named shipper.

MC 145779 (Sub-2)X, filed October 15, 1981. Applicant: OIL SERVICE CO., INC., Rte. 3, Petty Lane, Columbia, TN 38401. Representative: Edward C. Blank, P.O. Box 1004, Columbia, TN 38401. MC-145779F: (A) Broaden to (1)(a) "petroleum and petroleum products,"

from liquid industrial lubricant, thinning and dissolving products, in waste reprocessed or recycled condition, with supplemental additives, and (b) "pulp, paper and related products, from corrugated and waste paper material; (2) county-wide authority: Fulton, Cobb and DeKalb Counties, GA (Atlanta); Polk County, GA (Cedartown); Marion, Hamilton and Johnson Counties, IN (Indianapolis); Jefferson and Floyd Counties, KY (Louisville); Genesee County, MI (Flint); Wayne County, MI (Dearborn); Haywood County, NC (Waynesville); Hamilton, Butler and Clermont Counties, OH (Cincinnati); Montgomery County, OH (Dayton); Lawrence County, OH (Ironton); and Allegheny, Washington, Beaver, Butler, and Westmoreland Counties, PA (Pittsburgh); and (B) Remove the "in bulk, in mixed loads" restriction.

MC 148353 (Sub-3)X, filed October 21, 1981. Applicant: PORTER LINES, INCORPORATED, 2251 North Dragon, Tucson, AZ 85745. Representative: Milton W. Flack, 8383 Wilshire Blvd., Suite 900, Beverly Hills, CA 90211. Sub-2 certificate and MC-147903 permit. Broaden (1) to "chemicals and related products", from chemical (exceptions) epoxy compounds, ink materials, paint thinning compounds (except commodities in bulk) and drugs and toilet preparations (Sub 2 and lead permit); "rubber and plastic products" from liquid plastic materials, and "metal products" from cable splicing kits (Sub-2) (2) remove facilities restriction (Sub-2 and lead permit); (3) Olean to Cattaraugus County, NY; Lees Summit and Kansas City to Jackson County, MO; and Los Angeles Harbor and City of Industry to Los Angeles, CA (Sub 2); (4) to radial (Sub-2), (5) to between points in the U.S. under continuing contract(s) with named shipper (lead permit); (5) remove "in vehicles equipped with mechanical refrigeration" (Sub 2 and lead permit).

[FR Doc. 81-31925 Filed 11-3-81; 8:45 am]

BILLING CODE 7035-01-M

Motor Carrier Temporary Authority Application

The following are notices of filing of applications for temporary authority under Section 10928 of the Interstate Commerce Act and in accordance with the provisions of 49 CFR 1131.3. These rules provide that an original and two (2) copies of the protests to an application may be filed with the Regional Office named in the Federal Register publication no later than the 15th calendar day after the date of the

notice of the filing of the application is published in the **Federal Register**. One copy of the protests must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestants shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the ICC Regional Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

Notice No. F-163

The following applications were filed in region 5. Send protests to: Consumer Assistance Center, Interstate Commerce Commission, Post Office Box 17150, Fort Worth, TX 76102.

MC 52460 (Sub-5-45TA), filed October 22, 1981. Applicant: ELLEX TRANSPORTATION, INC., P.O. Box 9637, Tulsa, OK 74107. Representative: Don E. Kruizinga (same as above). *General Commodities (except household goods, as defined by the Commission and Classes A and B explosives)* (S.T.C.C. No. 31) Between points in the U.S. in and East of ND., SD., NE., KS., OK., and TX., restricted to traffic originating at or destined to the facilities used by Western Auto. Supporting shipper: Western Auto, 2107 Grand Avenue, Kansas City, MO 64108.

MC 105566 (Sub-5-23TA), filed October 21, 1981. Applicant: SAM TANKSLEY TRUCKING, INC., P.O. Box 1120, Cape Girardeau, MO 63701. Representative: William F. King, Suite 302, Overlook Building, 6121 Lincolnia Road, Alexandria, VA 22312. (1) *Pulp, paper, or allied products, printed matter and chemicals or allied products*, and (2) *materials, equipment, and supplies used in the manufacture and*

distribution of the commodities in (1) above, between Chelsea, MI; Fredericksburg, VA; New York, NY and Wickliffe, KY and points in CA, OR, WA, UT, AZ, NV and DC. Supporting shipper: BookCrafters, Inc., 140 Buchanan Street, Chelsea, MI 48118.

MC 113651 (Sub-5-32TA), filed October 22, 1981. Applicant: INDIANA REFRIGERATOR LINES, INC., 10838 Old Mill Road, Suite 4, Omaha, NE 68154. Representative: James F. Crosby & Associates, 7383 Pacific Street, Suite 210B, Omaha, NE 68114. (1) *Malt beverages and related advertising materials*, from Jefferson County, CO to AZ, MS, MO, LA, OK, and TX, and (2) *Empty used beverage containers and materials and supplies used in and dealt with by breweries*, from AZ, MS, MO, LA, OK, and TX to Jefferson County, CO. Supporting shipper: Adolph Coors Company, Golden, CO 80410.

MC 119399 (Sub-5-79TA), filed October 23, 1981. Applicant: CONTRACT FREIGHTERS, INC., 2900 Davis Boulevard, Joplin, MO 64802. Representative: Keith R. McCoy (Address same as applicant). *Copper cathodes, bars and rods; molybdenum from Gila Cty., AZ to Carrollton, GA; Indianapolis, IN; Vincennes, IN; Detroit, MI; Dowagiac, MI; Cleveland, OH; Fostoria, OH; Kenosha, WI and Shawnee, OK*. Supporting shipper: City Service, Inc., Miami, AZ.

MC 119399 (Sub-5-80TA), filed October 23, 1981. Applicant: CONTRACT FREIGHTERS, INC., 2900 Davis Boulevard, Joplin, MO 64802. Representative: Keith R. McCoy (Address same as applicant). *Waste paper between Green Bay, WI and Muskogee, OK, on the one hand, and, on the other, points in the U.S. (except AK and HI)*. Supporting shipper: Fort Howard Paper Co., Green Bay, WI.

MC 119399 (Sub-5-81TA), filed October 23, 1981. Applicant: CONTRACT FREIGHTERS, INC., 2900 Davis Boulevard, Joplin, MO 64802. Representative: Keith R. McCoy (Address same as applicant). *General commodities (except household goods, Classes A and B explosives, and commodities in bulk) between points in the U.S. restricted to facilities used by Discount Tire Company, Inc.* Supporting shipper: Discount Tire Company, Inc., Phoenix, AZ 85032.

MC 123876 (Sub-5-6TA), filed October 21, 1981. Applicant: PRATT TRANSPORTATION CO., INC. P.O. Box 1501, Omaha, NE 68101. Representative: Jack L. Shultz, P.O. Box 82028, Lincoln, NE 68501. *Liquid argon, liquid oxygen, liquid nitrogen and compressed gases*, between the facilities of Amerigas, Inc.

Between points in the U.S. Supporting shipper: Amerigas Industrial Gas Division of Amerigas, Inc., P.O. Box 965, Valley Forge, PA 19482.

MC 141312 (Sub-5-6TA), filed October 21, 1981. Applicant: DOKTER TRUCKING CORP., P.O. Box 408, Weeping Water, NE 68463. Representative: Lavern R. Holdeman P.O. Box 81849, Lincoln, NE 68501. *Cement, in bulk*, from facilities of or used by Missouri-Portland Cement Company, at or near Kansas City, MO, to Omaha, NE, and points in its commercial zone. Supporting shipper: Missouri-Portland Cement Co.

MC 146268 (Sub-5-1TA), filed October 21, 1981. Applicant: HENRY TRANSPORTATION, INC., 1328 North Rockhill Road, St. Louis, MO 63124. Representative: B. W. LaTourette, Jr., 11 S. Meramec, Suite 1400, St. Louis, MO 63105. *Floor Covering Products* (1) between points in GA and TN on the one hand, and on the other, points in MO, IL, IN, KY, IA, KS and NE and (2) between St. Louis, MO on the one hand, and on the other, points in IL, IN and KY. Supporting shippers: 25.

MC 150645 (Sub-5-8TA), filed October 21, 1981. Applicant: TILEWAYS, INC., 7834 Hawn Freeway, Dallas, TX 75217. Representative: Edwin M. Snyder, P.O. Box 45538, Dallas, TX 75245. Contract; irregular; *Food and related products between Manitowoc County, WI and Wabasha County, MN on the one hand, and on the other, points in the U.S. under continuing contract(s) with Lakeside Packing Company*. Supporting shipper(s): Lakeside Packing Company, P.O. Box 1127, 508 Jay Street, Manitowoc, WI 54220.

MC 150783 (Sub-5-34TA), filed October 23, 1981. Applicant: SCHEDULED TRUCKWAYS, INC., P.O. Box 757, Rogers, AR 72756. Representative: James H. Berry, P.O. Box 32, Wesley, AR 72773. *Clay, concrete, glass or stone products and bags and bagging*: between points in Ochlocknee, GA and Ripley, MS, on the one hand, and, on the other, points in and east of ND, NE, KS, OK and TX. Supporting shipper: Oil Dri Corporation of America, 520 North Michigan Avenue, Chicago, IL 60611.

MC 151819 (Sub-5-22TA), filed October 23, 1981. Applicant: CARGO MASTER, INC., 917 S. Harwood St., Dallas, TX 75201. Representative: Jackson Salasky, 917 S. Harwood St., Dallas, TX 75201. *Hides and hide trimmings* between points in the U.S. Supporting shippers: 7.

MC 152982 (Sub-5-2TA), filed October 21, 1981. Applicant: CLEVELAND

TRANSPORTATION CORP., Box 305, Sheldon, IA 51201. Representative: Edward A. O'Donnell, 1004 29th St., Sioux City, IA 51104. Contract Irregular: *General Commodities (Except Classes A&B Explosives, household goods, hazardous wastes and commodities in bulk, in tank vehicles)*. Between the right-of-way of the Milwaukee Road, extending from Perry, IA, East to Louisa, IA, on the one hand, and on the other, points in the U.S., under continuing contract(s) with L.B. Foster Co., Houston, TX. Supporting shipper: L. B. Foster Co., 3 Riverway, Suite 1100, Houston, TX 77056.

MC 154883 (Sub-5-6TA), filed October 23, 1981. Applicant: LOGGINS TRUCKING COMPANY, 1925 Oakhurst Circle, Tyler, TX 75711. Representative: Larry Loggins (same as applicant). Contract; Irregular. *Ice Cream and Related Products*, between Greencastle, PA, and Alexandria, VA, on the one hand, and on the other, to points in TX including Houston, San Antonio, and Dallas. Supporting shipper: Sunbelt Distributors, 8450 W. Park, Suite 108, Houston, TX 77063.

MC 155371 (Sub-5-2TA), filed October 23, 1981. Applicant: JERRY L. ELLIS d.b.a. JERRY L. ELLIS TRUCKING COMPANY, 505 Metcalf, Mansfield, TX 76063. Representative: Clint Oldham, 623 S. Henderson, 2nd Floor, Fort Worth, TX 76104. *Steel plate*, from Port of Houston (Harris County), TX to Arlington (Tarrant County), TX, Burleson (Johnson County), TX, and Meridian (Bosque County), TX. Supporting shippers: Basic Metals, Inc., 1801 S. Peyco Dr., Arlington, TX 76017; Duncan Equipment, Inc., 1800 Peyco Dr. South, Arlington, TX 76017.

MC-155595 (Sub-5-16TA), filed October 23, 1981. Applicant: WTR TRANSPORTATION, INC., 3023 Herbert Street, Dallas, TX 75212. Representative: Daniel C. Sullivan, Sullivan & Associates, Ltd., 10 S. LaSalle Street, Suite 1600, Chicago, IL 60603. *Such commodities as are dealt in or utilized by wholesale, retail or variety stores*, between the facilities of Arden, Inc. at points in CA, IA, IL, IN, KS, LA, NE, NV, NC, OK, TN, TX, WV, on the one hand, and, on the other, points in the U.S. Supporting shipper: Arden, Inc., 2320 Euclid Ave., Des Moines, IA 50310.

MC 156960 (Sub-5-2TA), filed October 21, 1981. Applicant: J. C. TRUCK, INC., 111 Halifax Cove, Jacksonville, AR 72076. Representative: Glen Clay (same as above). *Rubber covered printing and industrial rollers, new and old, worn out, materials, supplies and equipment used in the production of these roll coverings, except bulk, in tank vehicles*,

between the facilities of Samuel Bingham Co., Searcy, AR, and points in KS & IL. Supporting shipper: Samuel Bingham Co., 300 Lincoln St., Searcy, AR 71143.

MC 157061 (Sub-5-4), filed October 23, 1981. Applicant: ATLAS CARRIERS, INC., 800 S. Main St., Searcy, AR 72143. Representative: R. Connor Wiggins, Jr., 100 N. Main Bldg., Suite 909, Memphis, TN 38103. *Valves and castings* from Blytheville, AR, to points in the U.S. Supporting shipper: Nibco—Blytheville Division of Nibco, Inc., P.O. Box 1469, Blytheville, AR 72315.

MC 158937 (Sub-5-1), filed October 23, 1981. Applicant: WALTER GRISHAM d.b.a. GRISHAM TRUCKING, Route 1, Box 20, Colt, AR 72326. Representative: R. Connor Wiggins, Jr., 100 N. Main Bldg., Suite 902, Memphis, TN 38103. *Machinery and machinery parts and supplies* between Forrest City, AR, on the one hand, and, on the other, points in the U.S. Supporting shipper: Growers Equipment Co., P.O. Box 748, Forrest City, AR 72335.

MC 158938 (Sub-5-1TA), filed October 23, 1981. Applicant: BOSWELL FARMS, INC., 403 South State Street, Lamoni, IA 50140. Representative: James M. Hodge, 1000 United Central Bank Bldg., Des Moines, IA 50309. *Aircraft refuelers and parts and attachments of same*, between the facilities of National Refueler Manufacturing & Logistics, Inc. at or near Independence, MO on the one hand, and on the other, pts in the U.S. Supporting shipper(s): National Refueler Manufacturing & Logistics, Inc., P.O. Box 9425, Kansas City, MO 64133.

MC 158939 (Sub-5-1), filed October 23, 1981. Applicant: H. L. KELLY TRUCKING, P.O. Box 935, Great Bend, KS 67530. Representative: Eugene W. Hiatt, Hiatt, Hiatt & Carpenter, Chartered, 207 Casson Building, 603 Topeka Boulevard, Topeka, KS 66603. *Oil field machinery, equipment, materials and supplies*. Between KS, OK, TX, LA, CO, WY. Supporting shipper: Energy Reserves Group, Inc., 925 Patton, Great Bend, KS 67530; Flexweight Corporation, P.O. Box 507, Great Bend, KS, 67530; J & J Sales, Inc., 707 Washington, Great Bend, KS, 67530; K. E. Drilling, Inc., 2008 Eleventh Street, Great Bend, KS, 67530 and Western Testing Company, Inc., Box 793, Great Bend, KS, 67530.

MC 158942 (Sub-5-1TA), filed October 23, 1981. Applicant: D & L TRUCKING, INC., P.O. Box 1702, Alvin, TX 77511. Representative: Doyle G. Owens, 3965 Phelan, Suite 209, Beaumont, TX 77707. *Portable Cranes; Houses or Buildings, portable or fabricated, metal, knocked*

down flat, or in sections, between Houston, TX on the one hand, and on the other Morgan City, LA, Lake Charles, LA, Melville, LA and Sulphur, LA. Supporting shipper: American Crane Division, Inc., P.O. Box 14244, Houston, TX 77021.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 81-31923 Filed 11-3-81; 8:45 am]
BILLING CODE 7035-01-M

[Permanent Authority Volume No. OPY-5-185]

Republications of Grants of Operating Rights Authority Prior to Certification

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 opposing verified statements must be filed with the Commission within 45 days after the date of this Federal Register notice. Applicant may file a verified statement in rebuttal within 60 days. Such pleadings shall comply with 49 CFR 1100.252 addressing specifically the issue(s) indicated as the purpose for republication.

Agatha L. Mergenovich,
Secretary.

MC 155218 (republication), filed July 8, 1981, published in the Federal Register issue of July 29, 1981, and republished this issue. Applicant: TRANS TRUCK, INC., 2626 Camp Jackson Rd., Cahokia, IL 62206. Representative: Joseph E. Rebman, 314 N. Broadway, Suite 1300, St. Louis, MO 63102. A Decision of the Commission, Review Board 2, decided October 19, 1981, served October 26, 1981, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a common carrier, by motor vehicle, over irregular routes, transporting (1) salt, between points in the St. Louis, MO-East St. Louis, IL, commercial zone, on the one hand, and, on the other, points in Arkansas, Iowa, Illinois, Indiana, Kentucky, Missouri, and Tennessee, (2) coal and coal products, between points in the St. Louis, MO-East St. Louis, IL, commerce zone and points in Jefferson County, MO, on the one hand, and, on the other points in Arkansas, Iowa, Illinois, Indiana, Kentucky, Kansas, Missouri, and Oklahoma, (3) construction machinery and heavy equipment, between points in Illinois, Missouri, Kansas, Arkansas, Kentucky,

Tennessee, Mississippi, Alabama, Louisiana, Texas, Oklahoma, Iowa, Indiana, and Ohio, and (4) *road building materials*, between points in Missouri, on the one hand, and, on the other, points in Illinois, that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to indicate applicant's actual grant of authority.

[FR Doc. 81-31924 Filed 11-3-81; 8:45 am]

BILLING CODE 7035-01-M

Permanent Authority Volumes, Republications of Grants of Operating Rights Authority Prior to Certification

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 opposing verified statements must be filed with the Commission within 45 days after the date of this *Federal Register* notice. Applicant may file a verified statement in rebuttal within 60 days. Such pleadings shall comply with 49 CFR 1100.247 (renumbered 1100.251) addressing specifically the issue(s) indicated as the purpose for republication. Special Rule 247 (renumbered 251) was published in the *Federal Register* of July 3, 1980, at 45 FR 45539.

Volume No. OP1-294

MC 90870 (Sub-39) (republication), filed June 9, 1980, previously noticed in the *Federal Register* issue of July 31, 1980. Applicant: RIECHMANN ENTERPRISES, INC., Route 2, Box 137, Alhambra, IL 62001. Representative: Cecil L. Goettsch, 1100 Des Moines Building, Des Moines, IA 50307. A Decision by the Commission, Division 1, Acting as an Appellate Division, decided August 31, 1981, and served September 8, 1981, finds on reopening and further consideration that applicant is authorized to operate as a *common carrier*, transporting *iron and steel articles* between Chicago, IL, on the one hand, and on the other, points in the United States in and east of ND, SD, NE, KS, OK, and TX. Applicant is fit, willing, and able properly to perform the granted service. The purpose of this republication is to show authority actually granted.

Volume No. OP1-295

MC 143851 (Sub-2F) (republication), filed May 23, 1980, previously noticed in

the *Federal Register* issue of August 5, 1980. Applicant: AIRPORTS PASSENGER SYSTEM, INC., 1414 Calcon Hook Rd., Sharon Hill, PA 19079. Representative: Leonard C. Zucker, 321 Brookline Ave., Cherry Hill, NJ 08002. A Decision by the Commission Review Board Number 1, decided September 11, 1981 and served September 24, 1981 finds that the present and future public convenience and necessity require operation by applicant in interstate or foreign commerce as a *common carrier*, by motor vehicle in interstate or foreign commerce, over irregular routes, transporting *passengers and their baggage*, in special operations, in non-scheduled door to door service, limited to the transportation of not more than 16 passengers, in any one vehicle not including the driver, and not including children under 10 years of age who do not occupy a seat or seats, between points in Chester, Delaware, Montgomery, and Philadelphia Counties, PA, on the one hand, and, on the other, points in Atlantic and Cape May Counties, NJ. Applicant is fit, willing, and able properly to perform the granted service and to conform to statutory and administrative requirements. The purpose of this republication is to include Delaware County.

Volume No. OP1-296

MC 136511 (Sub-108) (republication), filed May 11, 1981, published in the *Federal Register* of May 29, 1981, and republished this issue. Applicant: VIRGINIA APPALACHIAN LUMBER CORP., 9640 Timberlake Road, Lynchburg, VA 24502. Representative: J. Johnson Eller, Jr., 513 Main Street, Altavista, VA 24517. A decision by the Commission Review Board #1, Decided October 1, 1981 and served October 23, 1981, finds that applicant is authorized to operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *component parts used in the manufacture of clothing and wearing apparel*, between the facilities of or used by Talon, Division of Nucon, at points in the United States, on the one hand, and, on the other, points in the United States. Applicant is fit, willing, and able properly to perform the granted service and to conform to statutory and administrative requirements. The purpose of this republication is to indicate the correct commodity description.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 81-31925 Filed 11-3-81; 8:45 am]

BILLING CODE 7035-01-M

[Permanent Authority Decision Volume No. OP3-245]

Republications of Grants of Operating Rights Authority Prior to Certification

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 within 30 days after the date of this *Federal Register* notice. 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 145054 (Sub-39) (republication), filed September 16, 1980, published in the *Federal Register* of October 3, 1980, and republished this issue. Applicant: COORS TRANSPORTATION, a corporation, 5101 York St., Denver, CO 80216. Representative: Leslie R. Kehl, 1600 Lincoln Center, 1600 Lincoln St., Denver, CO 80264. A Decision of the Commission, Review Board Number 3, decided December 18, 1980, served January 21, 1981, finds that operation by applicant as described herein will serve a useful public purpose responsive to a public demand or need to operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs and alcoholic beverages* from points in CA to points in CO; that applicant is fit, willing, and able properly to perform the granted service and to conform to the requirements of Title 49, Subtitle IV, U.S. Code, and the Commission's regulations. Any proper party in interest may file an appropriate petition for leave to intervene in this proceeding setting forth in detail the precise manner in which it has been prejudiced. The purpose of this republication is to reflect applicant's actual grant of authority.

By the Commission.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 81-31927 Filed 11-3-81; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-55 (Sub-No. 54F)]

**Seaboard Coast Line Railroad Co.—
Abandonment—in Rutherford County,
NC; Findings**

The Commission has issued a certificate authorizing Seaboard Coast Line Railroad Company to abandon two portions of its rail line known as the Caroleen Subdivision extending from milepost SFA-401.69 to milepost SFA-402.71 near Caroleen, NC, and from milepost SFB-402.26 at Cliffside Junction, NC to milepost SFB-403.46 at Henrietta, NC, in Rutherford County, a total distance of 2.22 miles, subject to certain conditions. The abandonment certificate will become effective 30 days after this publication unless the Commission also finds that: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance 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 10 days from publication of this Notice. Any offer previously made must be remade within this 10 day period. Information and procedure regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1121.38.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 81-31922 Filed 11-3-81; 8:45 am]
BILLING CODE 7035-01-M

[Finance Docket Nos. 29720 (Sub-1); 26115 (Sub-12)]

**Guilford Transportation Industries,
Inc.—Control—Boston and Maine
Corp.; Amended Plan of
Reorganization**

AGENCY: Interstate Commerce
Commission.

ACTION: (1) Notice of the filing of an application for the approval of control; (2) notice of the filing of an Amended Plan of Reorganization; and (3) establishment of a procedural schedule for this consolidated proceeding.

SUMMARY: Guilford Transportation Industries, Inc. (GTI), a non-carrier that currently controls the Maine Central Railroad Company (MEC), a class I rail

carrier, has filed an application to control the Boston and Maine Corporation (B&M), a class II rail carrier, under 49 U.S.C. 11343. In addition, the Trustees of the B&M have filed an Amended Plan of Reorganization under section 77 of the Bankruptcy Act (11 U.S.C. 205). The Amended Plan is founded upon GTI's acquisition of control of B&M and the distribution of proceeds to various classes of creditors. The two proceedings have been consolidated for concurrent disposition. This consolidated proceeding will be expedited because Section 1164 of the Northeast Rail Service Act of 1981, Pub. L. No. 97-35 requires the Commission to issue a final decision by April 26, 1982.

DATE: A detailed procedural schedule for this consolidated proceeding is attached as an appendix.

ADDRESS AND COPIES: An original and 10 copies of all pleadings in this consolidated proceeding should be sent to: Section of Finance, Room 5414, Interstate Commerce Commission, Washington, D.C. 20423.

A single copy of all pleadings should be sent to:

GTI's representative: James E. Howard;
Kirkpatrick, Lockhart, Johnson &
Hutchinson, 1500 Oliver Building,
Pittsburgh, PA 15222

MEC's representative: Scott W. Scully,
Maine Central Railroad Company, 242
St. John St., Portland, ME 04102
and

Trustees' representative: Charles W.
Mulcahy, Jr., c/o Boston and Maine
Corporation, 150 Causeway Street,
Boston, MA

FOR FURTHER INFORMATION CONTACT:
Ellen Hanson, (202) 275-7245, or Ernest
B. Abbott, (202) 275-3002.

SUPPLEMENTARY INFORMATION: The Commission has issued a decision which describes the control application and the Amended Plan of Reorganization in greater detail and presents crucial information concerning applicable substantive and procedural legal principles. All interested parties should obtain this decision from the Commission.

Decided: October 30, 1981.

By the Commission, Chairman Taylor, Vice
Chairman Clapp, Commissioners Cresham
and Gilliam.

Agatha L. Mergenovich,
Secretary.

Appendix

November 23, 1981—

Persons interested in participating in this consolidated proceeding must submit a concise position statement and provide their name, address, and telephone number, as well as the name, address, and telephone number of their representative.

Railroads which intend to file responsive applications must give specific prefiling notice.

Written requests for cross-examination of applicants and Trustees' witnesses (whose verified statements were filed with the application and plan) are also due.
December 7, 1981—

An official service list for this proceeding will be issued.

If any cross-examination is deemed necessary, an order setting a date, time, and place for oral hearing will be issued.
December 17, 1981—

[Tentative date for any oral hearing which might be found to be necessary in an order of December 7, 1981.]
December 28, 1981—

Responsive applications, including supporting evidence in the form of verified statements, are due.

All other evidence from private parties (in the form of verified statements) in support of or opposition to the control application is due.

All evidence (in the form of verified statements) in support of or opposition to the Amended Reorganization Plan is due.
January 18, 1982—

Verified statements in opposition to the responsive applications are due.

Written requests for cross-examination of witnesses whose verified statements were filed on December 28, 1981 are due.

Verified statements of public bodies, including the Departments of Justice and Transportation, in the control proceeding are due.
January 26, 1982—

The Commission will issue an order setting the schedule for the remainder of the evidentiary phase of this proceeding, including information concerning the submission of reply statements and briefs, and the scheduling of any further oral hearings warranted by the record.
February 1, 1982—

[Tentative date for any oral hearing which might be found to be necessary in the order of January 26, 1982.]
April 26, 1982—

Final decision will be issued.

[FR Doc. 81-32034 Filed 11-3-81; 8:45 am]
BILLING CODE 7035-01-M

NATIONAL ADVISORY COMMITTEE ON OCEANS AND ATMOSPHERE

Marine Minerals Panel; Meeting

Pursuant to Sec. 10(a)(2), of the Federal Advisory Committee Act, 5 U.S.C. App. (1976), notice is hereby given that the Marine Minerals Panel of the National Advisory Committee on Oceans and Atmosphere (NACOA) will meet on November 19-20, 1981. The Panel will meet in Room 418, Page Building #1, 2001 Wisconsin Avenue, NW., Washington, D.C.

The sessions, which will be open to the public, will convene at 8:30 a.m. and adjourn at 5 p.m. on November 19 and convene at 8:30 a.m. and adjourn at 3 p.m. on November 20. The tentative agenda is as follows:

Thursday, November 19, 1981

- 8:30 a.m.
 - Opening Remarks, Burt Keenan, Chairman
- 8:45 a.m.
 - OCS Hard Mineral Exploration Permit, John Rowland, USGS
- 9:30 a.m.
 - OCS Regulations Affecting Hard Mineral Resources, Robert Burford, Director, BLM
 - Bob Samuels, BLM
- 10:15 a.m.—Coffee Break
- 10:30 a.m.
 - Continental Shelf Mining by Small Business, Lloyd Molby
- 12:00 Noon—Lunch
- 1:15 p.m.
 - Technology Transfer Richard Legatski, NOIA, George Whitney, President, American Patent Law Association
- 3:15 p.m.—Coffee Break
- 3:30 p.m.
 - 200 Mile Exclusive Economic Zone, (TBA)
- 4:30 p.m.
 - Future Meeting Dates
- 5:00 p.m.—Recess

Friday, November 20, 1981

- 8:30 a.m.
 - Global Positioning System, Jack Van Lopik, NACOA Member
- 9:15 a.m.
 - Environmental Aspects of Marine Mining, Cliff Curtis, Center for Law and Social Policy
- 10:15 a.m.
 - Environmental Technology, Francois Morel, Professor, Massachusetts Institute of Technology
- 11:45 a.m.
 - Status of NOAA R/V Surveyor, Bob Dill, NOAA/MM
- 12:00 Noon—Lunch
- 1:15 p.m.
 - Examination of Issues
- 3:00 p.m.—Adjourn

Persons desiring to attend will be admitted to the extent seating is

available. Persons wishing to make formal statements should notify the Chairperson of the Panel on Marine Minerals, Burt Keenan, in advance of the meeting. The Chairperson retains the prerogative to impose limits on the duration of oral statements and discussion. Written statements may be submitted before or after each session.

Additional information concerning this meeting may be obtained through the NACOA Executive Director, Mr. Steven N. Anastasion, or Michael P. De Luca, the Staff Member for the Marine Minerals Panel. The mailing address is: NACOA, 3300 Whitehaven Street NW. (Suite 438, Page Building #1), Washington, DC 20235.

Dated: October 30, 1981.

Steven N. Anastasion,
Executive Director.

[FR Doc. 81-31956 Filed 11-3-81; 8:45 am]

BILLING CODE 3510-12-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (81-76)]

Government-owned Inventions; Availability for Licensing

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Availability of Inventions for Licensing.

SUMMARY: The inventions listed below are owned by the U.S. Government and are available for domestic and, possibly foreign licensing.

Copies of patent applications cited are available from the National Technical Information Service (NTIS), Springfield, Virginia 22161 for \$5.00 each (\$10.00 outside North American Continent). Requests for copies of patent applications must include the patent application serial number. Claims are deleted from the patent application copies sold to avoid premature disclosure.

DATE: November 4, 1981.

FOR FURTHER INFORMATION CONTACT: National Aeronautics and Space Administration, John G. Mannix, Director of Patent Licensing, Code GP-4, Washington, D.C. 20546, telephone 202-755-3954.

Patent application 225,494: Schottky Barrier Solar Cell and Method of Fabricating It; filed January 16, 1981.

Patent application 225,501: Schottky Barrier Solar Cell and Method of Fabricating It; filed January 16, 1981.

Patent application 229,233: Thermal Barrier Coating System Having

Improved Adhesion; filed January 28, 1981.

Patent application 231,543: Electrical Rotary Joint Apparatus for Large Space Structures; filed February 4, 1981.

Patent application 233,270: Apparatus for Determining Changes in Limb Volume; filed February 10, 1981.

Patent application 234,222: Heat Pipe Cooled Probe; filed February 13, 1981.

Patent application 234,223: Compression Test Apparatus; filed February 13, 1981.

Patent application 234,225: Electrically Calibratable Clock; filed February 13, 1981.

Patent application 235,363: Apparatus for Fiber Optic Liquid Level Sensing; filed February 19, 1981.

Patent application 235,796: Apparatus and Process for Microbial Detection and Enumeration; filed February 19, 1981.

Patent application 235,866: Non-Invasive Method and Apparatus for Measuring Pressure Within a Pliable Vessel; filed February 19, 1981.

Patent application 238,785: A Gas-to-Hydraulic Power Converter; filed February 27, 1981.

Patent application 238,786: Variable Speed Device; filed February 27, 1981.

Patent application 238,790: Advanced Inorganic Separators for Alkaline Batteries and Method of Making Same; filed February 27, 1981.

Patent application 238,887: Multiple Plate Hydrostatic Viscous Damper; filed February 27, 1981.

Patent application 238,888: Apparatus for and Method of Compensating Dynamic Unbalance; filed February 27, 1981.

Patent application 241,154: Low-Frequency Radio Navigation System; filed March 6, 1981.

Patent application 242-790: Aircraft Body-Axis Rotation Measurement System; filed March 11, 1981.

Patent application 242-795: Laser Surface Fusion of Plasma Sprayed Ceramic Turbine Seals; filed March 11, 1981.

Patent application 242-796: Solar Cell Having Improved Back Surface Reflector; filed March 11, 1981.

Patent application 242-797: Focal Plane Array Optional Proximity Sensor; filed March 11, 1981.

Patent application 243-682: Heat Pipes Containing Alkali Metal Working Fluid; filed March 16, 1981.

Patent application 243-683: Electrical Power Generating System; filed March 16, 1981.

Patent application 243-684: Unidirectional Flexural Pivot; filed March 16, 1981.

Patent application 243,685: Wingtip Vortex Turbine; filed March 16, 1981.

Patent application 246-772: Method for depositing an Oxide Coating; filed March 23, 1981.

Patent application 246-773: Method and Apparatus for Supercooling and Solidifying Substances; filed March 23, 1981.

Patent application 246-774: System for Monitoring Physical Characteristics of Fluids; filed March 23, 1981.

Patent application 246-778: Staggered Heights Resonance Isolator; filed March 23, 1981.

Patent application 246-779: Maser Amplifier Slow Wave Structure; filed March 23, 1981.

Patent application 247,777: Mobile Sampler for Use in Acquiring Samples of Terrestrial Atmospheric Gases; filed March 23, 1981.

Patent application 248,744: Aircraft Canopy Lock; filed March 30, 1981.

Patent application 248,745: Satellite Retrieval System; filed March 30, 1981.

Patent application 248,746: Apparatus for Accurately Preloading Auger Attachment Means for Frangible Protective Material; filed March 30, 1981.

Patent application 251,009: Ladder Supported Ring Bar Circuit; filed April 3, 1981.

Patent application 254,575: Electrophoresis Device; filed April 16, 1981.

Patent application 254,688: Bio-Medical Flow Sensor; filed April 16, 1981.

Patent application 259,208: Stable Density-Stratification Solar Pond; filed April 30, 1981.

Patent application 259,209: Explosively Actuated Egress Area; filed April 30, 1981.

Patent application 259,210: Waveguide Cooling System; filed April 30, 1981.

Patent application 259,211: Pressure Letdown Method and Device for Coal Conversion Systems; filed April 30, 1981.

Patent application 259,212: method and Apparatus for Precision Control of Radiometer; filed April 30, 1981.

Patent application 259,213: Asymmetric Polyimide Separation Membrane and Method; filed April 30, 1981.

Patent application 263,828: Extended Range X-Ray Telescope; filed May 15, 1981.

Patent application 263,829: Solar Powered Aircraft; filed May 15, 1981.

Patent application 263,830: Solar Driven Liquid Metal NHD Power Generator; filed May 15, 1981.

Patent application 263,957: System for Moving A Probe to Follow Movements of Tissue; filed May 15, 1981.

Patent application 264,378: Ion Sputter Textured Graphite; filed May 15, 1981.

Patent application 264,380: Heat Transparent High Intensity High Efficiency Solar Cell; filed May 15, 1981.

Patent application 264,381: Medical Clip and Process; filed May 15, 1981.

Patent application 266,253: Navigation System and Method; filed May 22, 1981.

Patent application 266,254: Method of Repairing Surface Damage to Porous Refractory Substrates; filed May 22, 1981.

Patent application 266,255: Zirconium Carbide as an Electrocatalyst for the Chromous/Chromic Redox Couple; filed May 22, 1981.

Patent application 266,256: Densification of Porous Refractory Substrates; filed May 22, 1981.

Patent application 266,687: Doppler Radar Having Phase Modulation of Both Transmitted and Reflected Return Signals; filed May 22, 1981.

Patent application 266,688: Automatic Compression Adjusting Mechanism for Internal Combustion Engines; filed May 22, 1981.

Patent application 267,179: Ride Quality Meter; filed May 22, 1981.

Patent application 267,935: Sound Shield; filed May 28, 1981.

Patent application 270,762: Universal Connectors for Joining Stringers; filed June 5, 1981.

Patent application 272,152: Method of Forming Oxide Coatings; filed June 10, 1981.

Patent application 272,233: Polyvinyl Alcohol Battery Separator Containing Inert Fillers; filed June 10, 1981.

Patent application 272,234: Cross-Linked Polyvinyl Alcohol and Method of Making Same; filed June 10, 1981.

Patent application 272,406: Additive for Zinc Electrodes; filed June 10, 1981.

Patent application 272,407: Ion Beam Sputter-Etched Ventricular Catheter for Hydrocephalus Shunt; filed June 10, 1981.

Patent application 272,837: Acoustic Suspension System; filed June 12, 1981.

Patent application 274,705: Aeroelastic Instability Stoppers for Wind Tunnel Models; filed July 17, 1981.

Patent application 274,706: Aeroelastic Instability Stoppers for Wind Tunnel Models; filed June 17, 1981.

Patent application 274,708: Method of and Apparatus for Double-Exposure Holographic Interferometry; filed June 17, 1981.

Patent application 276,748: Active Lamp Pulse Driver Circuit; filed June 24, 1981.

Patent application 276,749: Programmable Scan/Read Circuitry for Charge Coupled Device Imaging Detectors; filed June 24, 1981.

Patent application 276,750: Refrigerator Module, System and Process; filed June 24, 1981.

Patent application 280,151: Apparatus and Method for Heating a Material in a Transparent Ampoule; filed June 30, 1981.

Patent application 280,153: Enhancement of In Vitro Guayule Propagation; filed June 30, 1981.

Patent application 280,154: Combinational Logic for Generating Gate Drive Signals for Phase Control Rectifiers; filed June 30, 1981.

Patent application 282,129: Method of Carbonizing Polyacrylonitrile Fibers and Resulting Product; filed July 10, 1981.

Patent application 282,191: An Instrument for Determining Coincidence and Elapse Time Between Independent Sources of Random Sequential Events; filed July 10, 1981.

Patent application 282,192: Dual-Beam Skin Friction Interferometer; filed July 10, 1981.

Patent application 282,298: Alkaline Battery Containing a Separator of a Cross-Linked Copolymer of Vinyl Alcohol and Unsaturated Carboxylic Acid; filed July 10, 1981.

Patent application 284,286: Solar Energy Modulator; filed July 17, 1981.

Patent application 284,287: Synthetic Aperture Radar Target Simulator; filed July 17, 1981.

Patent application 284,288: Automatic Level Control Circuit; filed July 17, 1981.

Patent application 284,289: Radiative Cooler; filed July 17, 1981.

Patent application 284,290: High Stability Amplifier; filed July 17, 1981.

Patent application 284,314: High Stability Buffered Phase Comparator; filed July 17, 1981.

Patent application 288,267: Phosphorous-Containing Imide Resins; filed July 30, 1981.

Patent application 288,279: Resin Composition, Process for Producing the Same, Product Produced Therefrom and Process for Producing Said Product; filed July 30, 1981.

Patent application 288,434: Unequal Split Microwave Power Divider; filed July 30, 1981.

Patent application 291,131: Adaptive Reference Voltage Generator for Firing Angle Control of Line-Commutated Inverters; filed August 7, 1981.

Patent application 291,132: Adaptive Control System for Line-Commutated Inverters; filed August 7, 1981.

Patent application 291,644: Directional Flow Sensor; filed August 7, 1981.

Patent application 291,645: Automatic Multi-Banking of Memory for Microprocessors; filed August 7, 1981.

Patent application 293,414: Clamp-Mount Device; filed August 14, 1981.

Patent application 297,486: Gas Levitator and Method for Containerless Processing; filed August 28, 1981.

Patent application 297,487: Thermal Control Coatings Based on Trialkoxysilane Hydrolyzate Binders; filed August 28, 1981.

Patent application 297,524: Motor Power Control Circuit for A.C. Induction Motors; filed August 28, 1981.

S. Neil Hosenball,

General Counsel.

[FR Doc. 81-31917 Filed 11-3-81; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Council on the Arts; Museum Panel (Collection Maintenance and Training); Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Museum Panel (Collection Maintenance and Training) to the National Council on the Arts will be held on November 18-19, 1981, from 9:00 a.m.-5:30 p.m. in Room 1340 of the Columbia Plaza Office Complex, 2401 E Street, N.W., Washington, D.C. 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the Federal Register of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6070.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 81-31980 Filed 11-3-81; 8:45 am]

BILLING CODE 7537-01-M

Music Panel (Chorus); Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Music Panel (Chorus) to the National Council on the Arts will be held on November 17-18, 1981, from 9:00 a.m.-6:00 p.m. and on November 19, 1981, from 9:00 a.m.-5:30 p.m. in room 1426 of the Columbia Plaza Office Complex, 2401 E Street, N.W., Washington, D.C., 20506.

A portion of this meeting will be open to the public on November 19, 1981, from 3:30 p.m.-5:30 p.m., to discuss future directions.

The remaining sessions of this meeting on November 17-18, 1981, from 9:00 a.m.-6:00 p.m., and November 19, 1981, from 9:00 a.m.-3:30 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the Federal Register of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6070.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts, October 28, 1981.

[FR Doc. 81-31887 Filed 11-3-81; 8:45 am]

BILLING CODE 7537-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-313]

Arkansas Power & Light Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 60 to Facility Operating License No. DPR-51, issued to Arkansas Power & Light Company (the licensee), which revised the Technical

Specifications (TSs) for operation of Arkansas Nuclear One, Unit 1 (ANO-1) located in Pope County, Arkansas. The amendment is effective as of its date of issuance.

The amendment modifies the ANO-1 TSs to provide operational requirements, limiting conditions of operation, surveillance and test requirements for facility modifications made at ANO-1 to protect against degraded grid voltage damaging safety related equipment.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the licensee's application dated February 20, 1981, as supplemented by letters dated May 29, 1981, and October 8, 1981, (2) Amendment No. 60 to License No. DPR-51, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Arkansas Tech University, Russellville, Arkansas. 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 23rd day of October 1981.

For the Nuclear Regulatory Commission.

John F. Stolz,

Chief, Operating Reactors Branch No. 4, Division of Licensing.

[FR Doc. 81-31989 Filed 11-3-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-282 and 50-306]

Northern States Power Co.; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 50 to Facility Operating License No. DPR-42, and Amendment No. 44 to Facility Operating License No. DPR-60 issued to Northern States Power Company (the licensee), which revised Technical Specifications for operation of Prairie Island Nuclear Generating Plant, Unit Nos. 1 and 2 (the facilities) located in Goodhue County, Minnesota. The amendments are effective as of the date of issuance.

The amendments revise the Appendix A Technical Specifications by clarifying snubber surveillance requirements and also correct some administrative errors.

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 August 14, 1981, (2) Amendment Nos. 50 and 44 to License Nos. DPR-42 and DPR-60, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Environmental Conservation Library, 300 Nicollet Mall, Minneapolis, Minnesota 55401. 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 28th day of October, 1981.

For the Nuclear Regulatory Commission.

R. A. Clark

Chief, Operating Reactors Branch No. 3,
Division of Licensing.

[FR Doc. 81-31990 Filed 11-3-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. STN 50-483 OL]

Union Electric Co., Callaway Plant, Unit 1; Memorandum and Order on Prehearing Conference

October 29, 1981.

This Order relates to agreements and decisions made during the prehearing conference under 10 CFR 2.752, on quality assurance issues, held in St. Louis, Missouri, on October 26, 1981.

1. The Joint Intervenor (Coalition for the Environment, Missourians for Safe Energy and Crawdad Alliance) withdraw their motions for an extension of time on the hearing schedule for Contention 1 and their motion to compel responses for the Applicant to a document request, No. 54, and an interrogatory, second set, No. 25(b).

2. The Applicant will furnish the document above and in place of information on all fusion-welded SA-403 fittings in safety-related piping will supply the Joint Intervenor with relevant data on at least three systems with the highest hoop stresses where such fittings were utilized. The Applicant has also agreed to furnish the documents requested by the Joint Intervenor in their additional discovery request of October 13, 1981.

3. The Joint Intervenor have been granted an extension to file responses to Applicant's and the Staff's pending motions for summary disposition until October 30, 1981.

4. Joint Intervenor are granted an opportunity until November 9, 1981 to file the bases for its Contention No. 2-d (radioactive pollutants) and No. 2-i (health effects of low level radiation) and any other party will have ten days from receipt of service to file an answer.

The Board will hold hearings on the construction defects issues, as previously announced, starting with November 17, 1981, and will continue the proceedings during the periods of December 1-4 and December 14-19, 1981, if necessary. The hearing on November 19, 1981 will be held at the Stouffer's Riverfront, 200 S. 4th St., St. Louis, Mo. 63102.

Ordered in Bethesda, Maryland, October 29, 1981.

For the Atomic Safety and Licensing Board.

James P. Gleason,

Administrative Judge.

[FR Doc. 81-31991 Filed 11-3-81; 8:45 am]

BILLING CODE 7590-01-M

Colorado; Staff Assessment of Proposed Amended Agreement

Note.—This document was originally published in the issue of October 14, 1981. It is reprinted at the request of the Nuclear Regulatory Commission.

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of proposed amended agreement with State of Colorado.

SUMMARY: Notice is hereby given that the U.S. Nuclear Regulatory Commission is publishing for public comment a proposed amendment to the existing Section 274B. Agreement between NRC and the State of Colorado which became effective February 1, 1968. The request dated September 29, 1981, from the Governor of the State of Colorado, if approved, would permit the State of Colorado to regulate byproduct material as defined in Section 11e.(2) of the Atomic Energy Act, as amended, (uranium mill tailings) after November 8, 1981 in conformance with the requirements of Section 274a. of the Atomic Energy Act of 1954, as amended.

A staff assessment of the State's proposed radiation control program to implement the amended agreement is set forth below as supplementary information to this notice. A copy of the complete program description submitted by Colorado including a narrative prepared by the State describing the State's proposed program for control over byproduct materials as defined in Section 11e.(2) of the Act, appropriate State legislation, and regulations is available for public inspection in the Commission's public document room at 1717 H Street, NW, Washington, DC.

DATES: Comments must be received on or before November 13, 1981.

ADDRESSES: All interested persons desiring to submit comments and suggestions for the consideration of the Commission in connection with the proposed amended agreement should send them to the U.S. Nuclear Regulatory Commission, Office of State Programs, Washington, DC 20555.

FOR FURTHER INFORMATION CONTACT: John R. McGrath, Office of State Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone: (301) 492-9889.

SUPPLEMENTARY INFORMATION:

Assessment of Proposed Colorado Program to Regulate Byproduct Material as Defined in Section 11e.(2) of the Act. Reference: Criteria 29-36 of "Guidance of States and NRC in Discontinuance of NRC Regulatory Authority Thereof by States Through Agreement," 44 FR 42818.

I. Introduction

The Uranium Mill Tailings Radiation Control Act of 1978 amended the requirements for Section 274 of the Atomic Energy Act, "Cooperation With States" and imposed certain requirements that must be met by Agreement States in order to regulate uranium mill tailings after November 8, 1981. Governor Richard D. Lamm of the State of Colorado has requested NRC to amend its agreement with NRC to permit continued State regulation of uranium mill tailings after this date. His request was supported by a description of the State's program for control of uranium mill tailings. NRC Staff has completed an assessment of the State's proposal as follows:

II. Assessment of Proposed State of Colorado Radiation Control Program for Uranium Mill Tailings**1. Statutes**

State statutes or duly promulgated regulations should be enacted, if not already in place, to make clear State authority to carry out the requirements of Pub. L. 95-604, Uranium Mill Tailings Radiation Control Act (UMTRCA).

In the enactment of any supporting legislation, the State should take into account the reservations of authority to the United States in UMTRCA as stated in 10 CFR 150.15a.

It is preferable that State statutes contain the provisions of Section 6 of the Model Act,¹ but the provisions may be accomplished by adoption of either procedures by regulation or technical criteria. In any case, authority for their implementation should be adequately supported by statute, regulation or case law as determined by the State Attorney General.

¹ The reference is to the model Uranium Mill Radiation Control Act, a copy of which has been placed in the Commission's Public Document Room. Section 6 of the Model Act requires that, among other things, statutory authority must be enacted to make clear State authority to carry out the requirements of the Uranium Mill Tailings Radiation Control Act (UMTRCA) of 1978, as amended. UMTRCA specifies that when States license an activity involving mill tailings, that has a significant impact on the human environment, they must prepare a written independent analysis of the impact of such license on the environment, including any activities conducted pursuant thereto.

In the licensing and regulation of ores processed primarily for their source material content and for the disposal of byproduct material, procedures shall be established which provide a written analysis of the impact on the environment of the licensing activity. This analysis shall be available to the public before commencement of hearings and shall include:

- An assessment of the radiological and nonradiological public health impacts;
- An assessment of any impact on any body of water or groundwater;
- Consideration of alternatives to the licensed activities; and
- Consideration of long-term impacts of licenses activities.

A detailed evaluation of the pertinent Colorado Statutes, Title 25, Article 11, and Title 24, Article 11, Colorado Revised Statutes 1973, as amended, has been performed by NRC Staff. The State's statutes provide sufficient authority for Colorado agencies to comply with the requirements of UMTRCA. Many of the requirements discussed above and pertaining to performance of environmental assessments are addressed in Colorado regulations rather than legislation. The requirement that an adequate surety will be provided by the licensee to assure the completion of all requirements established by the State for decontamination, decommissioning, and reclamation of sites is contained in Section 3.9.4 of the State regulations. Requirements concerning preparation of environment reports by licensees and the preparation of environmental impact analyses by the State are contained in Sections 3.8.8 and 3.9.10.

2. Regulations

State regulations should be reviewed for regulatory requirements, and where necessary incorporate regulatory language which is equivalent to the extent practicable, or more stringent than regulations and standards adopted and enforced by the Commission, as required by Section 274c. (See 10 CFR 40 and 10 CFR 150.31(b)).

On August 19, 1981, (effective date: October 1, 1981) the State of Colorado Rules and Regulations pertaining to radiation control were amended to conform to the requirements of the Uranium Mill Tailings Radiation Control Act of 1978.

The regulations have been reviewed by the staff and deemed to be equivalent to the extent practicable to the requirements of 10 CFR 40, Appendix A. Satisfactorily addressed in the Colorado regulations are: bonding

requirements, siting requirements, criteria for tailings management, dam stability analyses, surety arrangements, requirements for ownership, and criteria for ongoing active maintenance for uranium mill tailings impoundments.

3. Organizational Relationships Within the States

Organizational relationships should be established which will provide for an effective regulatory program for uranium mills and mill tailings.

When personnel in agencies other than the lead agency are included in the professional staff's effort, their availability on a routine and continuing basis must be demonstrated. Arrangements for availability for such resources have been proposed by Colorado through interagency memoranda of understanding (MOU) with the Departments of Natural Resources, Highways, Local Affairs, and the Colorado Historical Society. Contained in the agreements are duties of each agency or division, i.e., the legislative or regulatory requirements for which they are responsible, and the period required for their performance. An organization chart outlining the organizational relationships between the Radiation Control Section and other State agencies is also included. The proposal acknowledges that the MOUs are for the work required by States statutes. Although not stated in the proposal, commitments for assistance by various State agencies assures that consideration for necessary budgeting is implicit in the commitments.

4. Personnel

Personnel needed in the processing of the license applications can be identified or grouped according to the following skills: Technical, Administrative, and Support.

In order to meet the requirements of UMTRCA, current indications are that 2-2.75 total professional person-years' effort is necessary to process and evaluate a new conventional mill license, in-situ license, or major license renewal. A complete review of in-plant safety, production of the environmental assessment, and consultant use are primary considerations in the total professional effort for each licensing case. With respect to clerical support, one secretary is required to process two conventional milling applications, including the pre-licensing and post-licensing phases. Legal support is also an essential element of the mill program and the effort is set at a minimum of 1/2 staff-year. In addition, consideration must be given to such post-licensing

activities as issuance of minor amendments, mill inspections, and environmental monitoring. Professional staff effort is estimated at 0.5-1.0 person-years for each year of post-licensing activities.

Currently, there are three conventional uranium milling operations and one heap leach operation licensed in the State of Colorado. The State is currently reviewing applications for two conventional mills and one in-situ leach operation. The State estimates that a total of 1.5 staff years of effort will be needed to conclude these actions in FY 81-82. A total of 5 staff years of technical and administrative effort is available. This includes 3.05 from the Radiation Control Section, 0.55 administrative, 0.4 from the Solid and Hazardous Waste Control Division, and 1.0 from other State agencies. 0.5 staff year of legal support per case (if uncontested) is also available. We conclude the total professional staff-years effort within the Radiation Control Section (RCS) directly responsible for regulation of uranium mills and mill tailings to be within our guidelines. Individuals in the Radiation Control Section involved in the regulation of mills include the following:

Albert J. Hazle, Director, Radiation and Hazardous Waste Control Division.
Education: Colorado State University, 1951-56, B.S. in Science; Colorado State University, 1958-60, graduate work in physiology.

Radiation Related Work Experience: 1961-65, Jefferson County Health Department; 1965-present, Colorado Department of Health.

Related Activities: Member of several task forces for the Conference of Radiation Control Program Directors.

Warren Jacobi, Supervisory Health Physicist.
Education: Wagner College, 1964-68, B.S. in Biology; Colorado State University, 1968-69, graduate work in Radiation Biology.

Radiation Related Work Experience: 1969 Colorado Department of Health; 1969-72 U.S. Army, Lectures in Radiation Protection; 1972-present Colorado Department of Health.

Related Activities: Member of several task forces for the Conference of Radiation Control Program Directors. Member of the Interorganizational Advisory Committee on Radiological Emergency Response Planning and Preparedness.

Robert Terry, Health Physicist.

Education: Colorado College, 1971-72, Syracuse University; 1972-75, B.S. in Biology, State University of New York at Binghamton; 1975-76, Graduate work in biochemistry.

Radiation Related Work Experience: 1976-present, Colorado Department of Health.

Dennis Brown, Health Physicist.

Education: Lawrence Institute of Technology, 1970-71; University of Michigan, 1971-73; Eastern Michigan University, 1974-76, B.S. in Biology.

Radiation Related Work Experience: 1981-present, Colorado Department of Health.

Richard Gamewell, Senior Health Physicist.
Education: Rutgers University, 1942-48, B.S. in Chemistry; University of Colorado, 1948-49, graduate work in Chemistry; University of Colorado School of Medicine, 1958-62, M.S. in Biophysics.

Radiation Related Work Experience: 1960-1962 Biophysics Department, University of Colorado School of Medicine; 1971-present, Colorado Department of Health.

Charles Mattson, Senior Health Physicist.
Education: Colorado School of Mines, 1961-1963; Colorado State College, 1963-1965, A.B. in Chemistry; Colorado State University, 1965-1967, M.S. in Chemistry; Colorado School of Mines, 1969, graduate work in Chemistry.

Radiation Related Work Experience: 1970-present, Colorado Department of Health.

Kenneth Weaver, Health Physicist.
Education: University of Colorado, 1963-1968, B.A. in Zoology, Chemistry; Washington State University, 1968-1969, graduate work in Zoology; Colorado State University, 1971-1978, M.S. in Radiation, Biology.

Radiation Related Work Experience: 1973-1976, Colorado State University; 1977-1978, Colorado State University; 1978-present, Colorado Department of Health.

During evaluations of license applications the State must have access to specialty resources such as hydrologists, geologists, and geotechnical engineers. Under the terms of the draft Memorandum of Understanding, the Colorado Geological Survey, a division of the Department of Natural Resources, is to provide technical advice and assistance regarding geologic hazards, mineral resource development, and visual esthetic impacts of source material milling operations. The Division of Water Resources of the State Department of Natural Resources reviews plans and specifications for design of dams, including tailings dams at source material milling operations. The Mined Land Reclamation Division and the State Water Conservation Board also review hydrologic aspects of such operations. It is also recommended that radioactive materials regulatory personnel have some training in these areas in addition to specialized training in uranium mill health physics and preparation of environmental assessments. Messrs. Weaver, Gamewell and Mattson have attended the NRC "Uranium Mill Training Course for State Regulatory Personnel." In addition, Mr. Weaver has attended the Colorado State University (CSU) course in Subsurface Contaminant Migration from Mill and Mill Waste Impoundments. Mr. Gamewell has attended the CSU course Groundwater Hydrology, and Mr. Mattson has

attended an NRC sponsored course on bioassay at uranium mills.

5. Functions To Be Covered

The State should develop procedures for licensing, inspection, and preparation of environmental assessments.

Each uranium mill license application will be evaluated against State statutes, regulations, and NRC Regulatory Guides. A list of NRC Regulatory Guides and other reference material sent to applicants and utilized by the State in evaluating licensing actions has been furnished. The State has also developed their own Source Material Mill Licensing Guide. The Guide addresses the preparation of the radioactive materials license application, the environmental report, and financial surety arrangements. The Guide also discusses such requirements as the prohibition on pre-licensing construction. State personnel will perform in-plant safety reviews. The individual in charge of licensing is also responsible for assuring that the in-plant safety review meets State requirements. As discussed earlier other State agencies are involved in the review of the environmental report.

Upon completion of the review and resolution of concerns, a draft preliminary executive licensing review summary is prepared which includes a project description, an environmental assessment and discussion of the issues, a draft license proposal, and draft surety agreements.

Financial surety requirements for specific classes of radioactive material licenses for both reclamation and long term care were included in the 1978 edition of the Colorado regulations. Model surety agreements drafted by the Department of Law are included in the State's proposal. Reclamation sureties include mill site, pipeline corridors and tailings impoundment stabilization, which nominally amounts to a \$10-25 million cost coverage guarantee. Mechanisms of surety provisions include all procedures including real equity but not including self insurance, unless certain very definitive tests are met.

Long-term funds for monitoring and maintenance are based on annual cost and the corpus necessary to generate the annual interest to meet that cost. Normally the corpus has involved several million dollars. Costs include visual inspections, surveys, sampling and analysis, fence, sign and road maintenance, plant and burrowing animal control, maintenance of drain and diversion systems and contingencies for recontouring.

Along with the preliminary executive licensing review summary, notice is also given of a hearing and a public comment period.

If several agencies will need to issue permits, hearings may be held jointly. The conduct of all procedures is in accord with the Colorado Administrative Procedures Act (APA or 24-4-101 *et seq.*, C.R.S. 1973, as amended) or as otherwise indicated by specific program statute.

Upon completion of the hearing and the comment period on the radioactive mill license application, a final executive licensing review summary is prepared and published. This includes a review of the comments and their disposition, findings of fact and conclusions of law, and the issuance of a license, if that is the final action called for.

Colorado's statute and regulations are written in a positive sense to the effect that it is the State's responsibility to issue licenses if public health, safety and the environment are adequately protected.

Inspections of all byproduct material licensees are conducted by Colorado in accordance with general procedures outlined in the State Radiation Control Section's Compliance manual. The procedures which are common to all routine inspections have been supplemented by instructions specific to inspections at mills. The general procedures have been judged acceptable during the periodic NRC review meetings with Colorado. The functions of State inspectors are to prepare for inspections, conduct on-site inspections, prepare a written report of the inspection, prepare enforcement letters, and review corrective actions. Compliance inspections are essential to ensure that conditions of licensure are being honored. Regular mill inspections are conducted annually. Occasional inspections targeted to specific aspects of an operation occur more frequently. Inspections are unannounced.

When major violations are found, follow-up inspections are made as required to determine subsequent compliance. Compliance determinations are also made in conjunction with review of reports required to be submitted to the Department at regular intervals. Enforcement action is in accord with the Colorado Administrative Procedure Act, 25-4-101 *et seq.*, C.R.S. 1973, as amended. The Department's escalated enforcement policy is included in the proposal. This policy addresses the goals of the enforcement program, violation severity categories, the issuance of Notices of Violation, Orders

and other enforcement options available to the State.

Alongside traditional occupational health physics concerns, Colorado has directed multi-agency attention to solving environmental health problems e.g., those associated with tailings-built impoundments at existing facilities, remediation of off-site surface soil and ground water contamination, and reduction of dusting from ore stockpile and handling areas.

States should require the submittal of semi-annual reports specifying the quantity of each of the principal radionuclides released to unrestricted areas in liquid and in gaseous effluents during the six month period. This data should be reported in a manner that will permit the regulatory agency to confirm the potential annual radiation doses to the public. The State of Colorado places a standard condition on all uranium mill licenses requiring the submittal of effluent and environmental monitoring data. A sample format for reporting this data is provided.

6. Instrumentation

The State should have available both field and laboratory instrumentation sufficient to ensure the licensee's control of materials and to validate the licensee's measurements.

a. Sampling of air particulates—The State has area air samplers to detect natural uranium, Ra-226, Th-230, and Pb-210.

b. Sampling of radioactive gases—Scintillation detectors with compatible scintillation cells are utilized for detection of Radon-222.

c. Site surveillance—The State has a number of portable survey meters designed to be used with interchangeable detector probes, i.e., proportional, Geiger-Muller, and scintillation probes for detection of alpha, beta, and gamma radiations, respectively. Three micro-R meters for counting of low-level gamma dose rates are also available. There are general purpose survey meters providing versatility for use in field and laboratory. Alpha scintillation probes are currently being used with these survey meters.

d. Equipment calibration—Procedures have been developed and staff has been trained in calibration of radiation detection equipment. Survey instrumentation is calibrated in-house.

7. Conclusion

Based on the foregoing, the NRC staff concludes that the State of Colorado has met the NRC criteria for an amended agreement.

III. Amendment to Agreement Between the U.S. Nuclear Regulatory Commission and the State of Colorado for Discontinuance of Certain Commission Regulatory Authority and Responsibility Within the State Pursuant to Section 274 of the Atomic Energy Act of 1954, as Amended

Whereas, the United States Atomic Energy Commission¹ (hereinafter referred to as the Commission) entered into an Agreement (hereinafter referred to as the Agreement of January 16, 1968) with the State of Colorado under Section 274 of the Atomic Energy Act of 1954, as amended (hereinafter referred to as the Act), which Agreement became effective on February 1, 1968 and provided for discontinuance of the regulatory authority of the Commission within the State under Chapters 6, 7, and 8, and Section 161 of the Act with respect to byproduct materials as defined in Section 11e.(1) of the Act, source materials, and special nuclear materials in quantities not sufficient to form a critical mass; and

Whereas, it is necessary to enter into this amendment in order to implement new requirements of Section 274 of the Act which become fully effective on November 8, 1981; and

Whereas, the Commission found on _____, 1981 that the program of the State for the regulation of materials covered by this amendment is in accordance with the requirements of Section 274o. of the Act and in all other respects compatible with the Commission's program for the regulation of such materials and is adequate to protect the public health and safety; and

Whereas, this amendment is entered into pursuant to the provisions of the Atomic Energy Act of 1954, as amended;

Now, therefore, it is hereby agreed between the Commission and the Governor of the State, acting on behalf of the State, as follows:

Section 1. Article I of the Agreement of February 1, 1968 is amended by adding "as defined in Section 11e.(1) of the Act;" after the words "byproduct materials" in paragraph H., by redesignating paragraphs B. and C. as paragraphs C. and D., and by inserting the following new paragraph immediately after paragraph A.:

"B. Byproduct materials as defined in Section 11e.(2) of the Act"

Section 2. Article II of the Agreement of February 1, 1968 is amended by

¹ Under the provisions of the Energy Reorganization Act of 1974, the regulatory functions formerly carried out by the Atomic Energy Commission are now carried out by the Nuclear Regulatory Commission as of January 19, 1975.

inserting "a." before the words "This Agreement," by redesignating paragraphs A. through D. as subparagraphs 1. through 4., and by adding the following at the end thereof:

"B. Notwithstanding this Agreement, the commission retains the following authorities pertaining to byproduct materials as defined in Section 11e.(2) of the Act:

"1. Prior to the termination of a State license for such byproduct material, or for any activity that results in the production of such material. The Commission shall have made a determination that all applicable standards and requirements pertaining to such material have been met.

"2. The Commission reserves the authority to establish minimum standards governing reclamation, long term surveillance or maintenance, and ownership of such byproduct material. Such reserved authority includes:

"a. The authority to establish terms and conditions as the Commission determines necessary to assure that, prior to termination of any license for such byproduct material, or for any activity that results in the production of such material, the licensee shall comply with decontamination, decommissioning, and reclamation standards prescribed by the Commission; and with ownership requirements for such materials and its disposal site;

"b. The authority to require that prior to termination of any license for such byproduct material or for any activity that results in the production of such material, title to such byproduct material and its disposal site be transferred to the United States or the State of the option of the State (provided such option is exercised prior to termination of the license);

"c. The authority to permit use of surface or subsurface estates, or both, of the land transferred to the United States or the State pursuant to subparagraph B.2.b. of this Article, but any such use of land transferred to the State may be made only with the concurrence of the State;

"d. The authority to require the Secretary of the Department of Energy, other Federal agency, or State, whichever has custody of such byproduct material and its disposal site, to undertake such monitoring, maintenance, and emergency measures as are necessary to protect the public health and safety, and other actions as the Commission deems necessary; and

"e. The authority to enter into arrangements as may be appropriate to assure Federal long term surveillance or maintenance of such byproduct material

and its disposal site on land held in trust by the United States for any Indian tribe or land owned by an Indian tribe and subject to a restriction against alienation imposed by the United States."

Section 3. Article III of the Agreement of February 1, 1968 is amended by inserting "otherwise licensable by the State under Article I of this Agreement" after the words "special nuclear material."

Section 4. Article VII of the Agreement of February 1, 1968 is amended by inserting "all or part of" after the words "terminate or suspend," by inserting "(1)" after the words "finds that," and by adding at the end before the period the following:

"or (2) the State has not compiled with one or more of the requirements of Section 274 of the Act. The Commission shall periodically review this Agreement and actions taken by the State under this Agreement to ensure compliance with the provisions of Section 274 of the Act."

Section 5. Article VIII of the Agreement of February 1, 1968 is amended by redesignating it Article IX and by inserting a new Article VIII as follows:

"In the licensing and regulation of byproduct material as defined in Section 11e.(2) of the Act, or of any activity which results in production of such material, the State shall comply with the provisions of Section 274c. of the Act. If, in such licensing and regulation, the State requires financial surety arrangements for the reclamation of long term surveillance or maintenance of such material,

"A. The total amount of funds the State collects for such purposes shall be transferred to the United States if custody of such material and its disposal site is transferred to the United States upon termination of the State license for such material or any activity which results in the production of such material. Such funds include, but are not limited to, sums collected for long term surveillance or maintenance. Such funds do not, however, include monies held as surety where no default has occurred and the reclamation or other bonded activity has been performed; and

"B. Such State surety or other financial requirements must be sufficient to ensure compliance with those standards established by the Commission pertaining to bonds, sureties, and financial arrangements to ensure adequate reclamation and long term management of such byproduct material and its disposal site."

This amendment shall become effective on November 8, 1981 and shall

remain in effect unless and until such time as it is terminated pursuant to Article VII.

Done at Denver, State of Colorado, in triplicate, this day of 1981.

For the State of Colorado.

Richard D. Lamm,
Governor of Colorado.

Done at Washington, DC, in triplicate, this day of 1981

For the U.S. Nuclear Regulatory Commission.

Nunzio J. Palladino,
Chairman.

Dated at Bethesda, Maryland, this 7th day of October, 1981.

For the Nuclear Regulatory Commission.

G. Wayne Kerr,
Director, Office of State Programs.

[FR Doc. 81-29747 Filed 10-13-81; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. 301-23]

National Broiler Council, et al.; Initiation of Investigation

On September 17, 1981, the Chairman of the Section 301 Committee received a petition from the National Broiler Council and other representatives of the poultry industry alleging that EC export subsidies on poultry are granted in violation of Articles 8 and 10 of the Agreement on Interpretation and Application of Articles VI, XVI and XXIII of the General Agreement on Tariffs and Trade ("Subsidies Code") and constitute an unreasonable and unjustifiable burden on U.S. commerce. The petition was filed pursuant to Section 301 of the Trade Act of 1974, as amended (19 U.S.C. 2411 *et seq.*). On October 28, 1981 the United States Trade Representative decided to initiate an investigation pursuant to 19 U.S.C. 2412(a).

The text of the petition is as follows:

Before the Office of the United States Trade Representative

National Broiler Council, Poultry And Egg Institute of America, Alabama Poultry And Egg Association, Arkansas Poultry Federation, Delmarva Poultry Industry Inc., Florida Poultry Federation, Georgia Poultry Federation, Mississippi Poultry Association, North Carolina Poultry Federation, Texas Poultry Federation And Affiliates, Virginia Poultry Federation, Pennsylvania Poultry Federation, Petitioners. Petition seeking relief under Section 301 of the Trade Act of 1974, as amended.

This petition is filed pursuant to 15 CFR 2008.0(b) (1980) and section 301, *et seq.*, of the Trade Act of 1974, as amended, 19 U.S.C. 2411 *et seq.* (Supp. III 1979). Petitioners have been preempted from participation in significant world markets for poultry products and are threatened with future preemption from participation in additional world markets on account of the bestowal of unjustified and unfair export subsidies by the European Economic Community (hereinafter the "E.C.") and on account of other unjustified and unfair export subsidies bestowed upon exporters of poultry meat by the Government of France. As a direct result of these subsidies, producers within the E.C. have gained more than an equitable share of world export trade in whole chickens. In addition, these subsidies have been granted in a manner which results in prices for whole chickens which are materially below prices charged by U.S. producers in various world markets. Moreover, the continued use of these subsidies threatens to seriously prejudice the interests of U.S. producers. The use of these export subsidies violates the rights of the United States under the provisions of the General Agreement on Tariffs and Trade (hereinafter the "General Agreement") and the Agreement on Interpretation and Application of Articles IV, XVI, and XXIII of the General Agreement on Tariffs and Trade (hereinafter the "Subsidies Code"). Moreover, the use of these subsidies is unjustifiable, unreasonable and discriminatory, and the use of such subsidies burdens and restricts U.S. commerce.

The Petitioners

Petitioners are the National Broiler Council, Poultry and Egg Institute of America, Alabama Poultry and Egg Association, Arkansas Poultry Federation, Delmarva Poultry Industry Inc., Florida Poultry Federation, Georgia Poultry Federation, Inc., Mississippi Poultry Association, North Carolina Poultry Federation, Texas Poultry Federation and Affiliates and the Virginia Poultry Federation, Inc. The members of these organizations include all major producers of U.S. poultry exports.

The National Broiler Council is a not-for-profit national trade association headquartered in Washington, D.C. and incorporated as a non-profit association in the Commonwealth of Virginia. Its members produce and process more than 75 percent of this country's young meat chicken (broilers). The Poultry and Egg Institute of America is a national non-profit association headquartered in Arlington, Virginia. The Institute represents those who breed, hatch, process or distribute poultry, eggs, and poultry and egg products, (including chicken and turkey meat). The Alabama Poultry and Egg Association is a non-profit trade organization headquartered in Cullman, Alabama. Association members represent all phases of the poultry industry—broiler integration, commercial egg integration, food manufacturing, turkey producers, independent hatcheries, contract broiler growers and egg producers and allied industry firms. The Arkansas Poultry Federation, headquartered in Little Rock, is a trade association whose members are

engaged in all phases of the Arkansas poultry industry. The Delmarva Poultry Industry Inc. is an organization of broiler and breeder pullet growers, hatching egg producers, hatcherymen, feed manufacturers, poultry processors and allied businesses. It is located in Georgetown, Delaware and represents the tri-state poultry industry of Delaware and the Eastern Shore counties of Maryland and Virginia. The Florida Poultry Federation is a non-profit corporation formed under the laws of Florida and headquartered in Tampa. Its members are Florida poultry producers, processors, hatchery operators feed dealers, and egg dealers. The Georgia Poultry Federation is a trade association, headquartered in Gainesville, Georgia, representing all segments of the Georgia poultry industry. Federation members account for virtually all of the poultry production in Georgia, which on a daily average basis amounts to over six million pounds of chicken, over fifteen million eggs, and about 75 tons of turkey. The Mississippi Poultry Association is a non-profit corporation headquartered in Jackson, Mississippi. The Association represents all phases of the poultry industry in Mississippi, primarily the broiler and egg industries. The North Carolina Poultry Federation, headquartered in Raleigh, represents the three-quarters of a billion dollar poultry industry of North Carolina. Its activities include consumer education, research, government and legislative affairs. The Texas Poultry Federation and Affiliates, headquartered in Austin, represents about 99 percent of the state's turkey industry, 95 percent of the broiler industry, and 75 percent of the egg industry. The Virginia Poultry Federation, Inc., headquartered in Harrisonburg, represents individuals and firms engaged in all facets of the poultry and egg industries. The Pennsylvania Poultry Federation of Harrisburg represents firms who market broilers, eggs and turkeys in Pennsylvania.

Statutory Basis for This Petition

This petition arises under section 301(a) (1), (2)(A) and (2)(B) of the Trade Act of 1974, as amended, 19 U.S.C. 2411 (Supp. III 1979), Articles VI, XVI and XXIII of the General Agreement and Articles 8 and 10 of the Subsidies Code. Exporters of poultry and poultry meat in the E.C. have achieved, as a direct result of the bestowal of substantial export subsidies by the E.C. and the Government of France, more than an equitable share of world export trade in whole chickens and threaten to attain more than an equitable share of world export trade in chicken parts, whole turkeys and turkey parts. In addition, such export subsidies have resulted and will continue to result in prices for whole chickens which are materially below those of U.S. producers in specific world markets.

Foreign Laws and Regulations Which Are the Subject of This Petition

Export subsidies for poultry meat are provided for in Council Regulation No. 2777/75,¹ which establishes a common

General rules for granting export refunds on poultry meat and criteria for fixing in advance the amount of the refund are provided in Council Regulation 2779/75.² Regulations announcing the levels of these subsidies appear quarterly in the *Official Journal*.

Additionally, the French Government provides generous subsidies to its poultry producers, including both chicken and turkey producers and processors. The subsidies take the form of capital grants, capital loans, training grants, livestock housing, reconversion fund loans and land loan facilities. Although not provided for in any specific laws or regulations, these programs are a part of a French program to finance the French food processing industry, particularly its exports. To spearhead this effort, a new body—the Institut de Développement des Industries Agro-Alimentaires—has been formed, with an initial budget of \$40 million. Recently the turkey industry has become a substantial beneficiary of this program. These subsidies to the turkey industry are also addressed in this petition.

Foreign Countries or Instrumentalities With Whom the United States Has an Agreement

The E.C. has signed the Subsidies Code on behalf of all member states. Producers in the following member nations of the E.C. are the principal beneficiaries of the E.C.'s export refunds for poultry meat: the Netherlands, France, Denmark, Belgium-Luxembourg, the United Kingdom and the Federal Republic of Germany. Each of these countries is an individual signatory to the General Agreement.

Products Which Are the Subject of This Petition

The products for which the rights of the United States under the General Agreement and the Subsidies Code are being denied include whole chickens (including broilers, fryers, capons, roasters and fowl), chicken parts, turkey and turkey parts. These products comprise S.I.T.C. category 011.4.

Requests for Other Relief

Petitioners have not filed and do not presently contemplate filing for relief under the Trade Act of 1974 or any other provision of law.

Legal Justification for This Petition

I. Introduction

American poultry meat producers and processors are the world's most efficient. Because of the subsidies made available to less efficient overseas competitors, only four percent of U.S. poultry meat production is exported. On the other hand, producers in the E.C. export over 17 percent of their production (Table 1). If free market conditions were allowed to prevail, U.S. producers could compete effectively against European producers in international markets on the basis of price. Unfortunately, the E.C. has, through its Common Agricultural Policy, erected impenetrable barriers to outside competition, encouraged production of

¹O.J. EUR. COMM. (No. L/282) 77 (1975).

²O.J. EUR. COMM. (No. L/282) 90 (1975).

enormous surpluses and created a system of generous export subsidies. Export refunds under the E.C.'s Common Agricultural Policy were originally intended to permit the disposal of occasional surpluses in export markets. In fact, however, these subsidies have led to the creation of a substantial export industry with facilities dedicated to the production of poultry meat intended solely for export. As a result of these subsidies, U.S. producers have been preempted from markets traditionally important to them. U.S. producers have already lost substantial sales and sales opportunities for whole chickens in several significant world markets. Members of the petitioner organizations are threatened with further losses if such subsidies continue.

The practice which is the principal subject of this petition is the E.C.'s export subsidy on whole chickens, chicken parts, turkeys, and turkey parts shipped to all destinations outside of the E.C., except the United States. Additionally, the petition addresses the subsidization of the production of poultry meat for export made available to French producers by the Government of France. As a direct result of these practices, exports of whole chickens from the E.C. have been made and continue to be made at prices materially below prices of U.S. producers, and E.C. producers have gained more than an equitable share of world export trade in whole chickens to the great detriment of U.S. producers. The bestowal of these subsidies is therefore inconsistent with the obligations of the E.C. and the Government of France under Article 10 of the Subsidies Code. In addition, U.S. producers currently face a threat of serious prejudice in their exportation of whole chickens to certain locations as well as chicken parts, turkeys and turkey parts. This threat of serious prejudice results from three factors. First, the scope of the products for subsidy by the E.C. has been expanded to include chicken parts and turkeys and turkey parts. Second, the geographic areas for which exports may be entitled to a subsidy has been expanded to include the entire non-E.C. world, except the United States. Third, there is virtually no control under E.C. regulations to discourage production of surplus poultry products nor is there any apparent limit on the amount of funds available from the E.C. for awarding subsidies. These factors coupled with the generous subsidies available from the Government of France have resulted in the creation of poultry processing facilities completely dedicated to the export market. The threat of serious prejudice posed by these subsidies is inconsistent with the undertakings of both the E.C. and the Government of France under Article 8 of the Subsidies Code.³

II. The Common Agricultural Policy of the European Economic Community

On January 1, 1958, the Treaty of Rome⁴ established an agreement among the six original members of the E.C. to form a custom

union. In Article 38 of the Treaty, the E.C.'s founders announced their intention to develop common policies for agriculture. The Treaty left the content of this common agricultural policy to be settled by the Commission (the administrative body of the Community), with the approval of the Council (the policy-making body).

In 1962 the E.C. began to implement its Common Agricultural Policy (hereinafter the "CAP") by establishing common arrangements for marketing in specified commodity groups. The first series of regulations, numbered 19-24, was promulgated in 1962 and created a common market organization for grains, pork, egg, poultry, fruit and vegetables, and wine.⁵ A second series of regulations promulgated late in 1963 covered dairy products, beef, and rice.⁶ The common management regulations differed somewhat according to each commodity's production and marketing characteristics, but each price support system provided for a minimum import price.⁷ A variable levy was applied to imports from non-member countries offered at prices below the minimum price to raise them to that level. A system of export refunds (subsidies) was established to ensure that surplus production could be disposed of at prevailing world market prices in export markets. A description of how the CAP was established and implemented for poultry products follows.⁸

A. Basic and Variable Levies on Poultry Meat. The E.C. price support regime covers fresh, chilled, or frozen chickens, ducks, geese, turkeys, and guinea fowl. Council Regulation No. 22 of April 4, 1962, provided for gradual establishment of a common market for poultry.⁹ The E.C. replaced this regulation on June 13, 1967, with Council Regulation No. 123/67.¹⁰ In November 1975, Regulation 277/75¹¹ superseded Regulation No. 123/67.

The device chosen by the E.C. to shield its producers from competition from more efficient American producers may be one of the most effective methods of protection ever devised. Import levies are set in advance by the Commission on a quarterly basis. The basic levy for slaughtered poultry consists of two components. The first component is equal to the difference between the E.C. and world market prices of the quantity of feed grain needed to produce one kilogram of each type of poultry meat. The second component is equal to seven percent of the average

sluice-gate prices for the four quarters preceding May 1 of each year.

An additional amount, called the supplementary or variable levy, may be added if the f.i.f. (free-to-frontier) price drops below the sluice-gate price, unless the exporting country guarantees that the price of products coming from its territory will not be lower than the sluice-gate price and that there will be no deflection of trade.

Sluice-gate prices are set by the Commission in advance on a quarterly basis. The sluice-gate price for poultry is determined by adding to the world market price of the quantity of feed grain needed in third countries to produce one kilogram of slaughtered poultry an amount representing additional production and marketing costs. The E.C. considers this the fair average cost of poultry produced in third countries.

The effectiveness of the variable levy in discouraging the importation of poultry meat by potential buyers within the E.C. may be measured by the fact that imports of broilers in excess of *de minimis* levels have been virtually nonexistent since the variable levy was first introduced. Petitioners have experienced substantial prejudice on account of their virtual exclusion from the E.C. market because of the imposition of the variable levy. The compatibility of the variable levy with the General Agreement has, to our knowledge, never been determined in a formal GATT proceeding.¹² Nevertheless, Petitioners do not elect to challenge the imposition of the variable levy in this proceeding. The purpose of this petition is to seek redress for the serious prejudice which they are experiencing in non-E.C. export markets.

B. Export Refunds for Poultry Meat. Export subsidies for poultry meat are provided for in Council Regulation No. 277/75.¹³ Council Regulation No. 2779/75¹⁴ lays down general rules for granting export refunds on poultry and criteria for fixing in advance the amount of the refund.

In theory, the purpose of the export refund is to eliminate the cost disadvantage experienced by E.C. poultry producers on account of the higher feed grain prices which prevail within the E.C. on account of its price support system for feed grains. The guidelines for fixing export refunds provide substantial flexibility to those who administer this program.¹⁵

¹² See, however, "Petition Filed on Behalf of National Canners Association for Section 301 Relief from the E.C. Variable Levy on Calculated Added Sugars in Canned Fruit," 42 Fed. Reg. 15385 (April 12, 1976); terminated 45 Fed. Reg. 41254 (June 18, 1980).

¹³ O. J. EUR. COMM. (No. L/282) 77 (1975).

¹⁴ O. J. EUR. COMM. (No. L/282) 90 (1975).

¹⁵ According to the relevant regulation, the size of the refund depends upon some or all of the following factors: (1) the difference between prices for poultry in the E.C. and on the world markets; (2) the supply of poultry meat products on the E.C. markets; (3) the need to avoid disturbances which might lead to a prolonged imbalance between supply and demand on the Community market; (4) the economic aspect of the proposed exports; (5) the difference between the prices within the E.C. and on the world market for the quantity of feed grain

Continued

³ Serious prejudice includes threat of serious prejudice as defined in the Subsidies Code, Article 6 footnote 3.

⁴ Treaty of Rome, signed March 25, 1957, 298 U.N.T.S. 5.

⁵ 7 J.O. COMM. EUR. 933 (1962).

⁶ 7 J.O. COMM. EUR. 549 (1964).

⁷ The minimum import price is called the Threshold Price for cereals, sugar, and milk products; the Sluice-gate Price for eggs, pork, and poultry; and the Referenced Price for fruits and vegetables.

⁸ Although this petition will focus entirely on the subsidy of poultry meat, certain of the petitioners are disturbed by the E.C.'s export refund program with respect to eggs and egg products, see O. J. EUR. COMM. (No. L/282) 68 (1975). The level of subsidy in these related products is substantial (over \$300 per metric ton in 1979) and may be the subject of a subsequent petition.

⁹ 7 J.O. COMM. EUR. 933 (1962).

¹⁰ O. J. EUR. COMM. (No. 117) (1967).

¹¹ O. J. EUR. COMM. (No. L/282) (1975).

It is interesting to note that the stated purpose of this regulation is to permit establishment of export refunds which do not only reflect differences in the world and E.C. prices for poultry meat and the feed grain needed to produce poultry meat, but which also reflect the market conditions in the country of destination because "special conditions apply to imports in certain countries of destination."¹⁶ Experience in the marketplace amply demonstrates that the amount of subsidy is established at whatever level is needed in order to undercut a competitor's price and make a sale. As we shall demonstrate below, export refunds have been made at levels which ensure the absolute dominance of E.C. exports in specific world markets.

C. Implementation of the Export Refund System on Poultry Meat. 1. *The Scope of the Subsidies on Poultry Meat.* Subsidies (export refunds) on exports of whole poultry parts were introduced by the E.C. in 1967 for exports to all destinations. They remained in effect until July 1, 1974. Between August 15 and September 20, 1974, the subsidy applied only to whole chickens exported to non-E.C. Europe, the Middle East and some countries bordering the Mediterranean.¹⁷ In September 1974, the E.C. began subsidizing exports to Cuba and the Canary Islands,¹⁸ and in November 1975, exports to Africa joined the list.¹⁹ The subsidy was extended to chicken parts on June 1, 1979,²⁰ and to turkeys and turkey parts on January 21, 1980.²¹ On January 21, 1980, the E.C. expanded its subsidy program to all non-E.C. destinations except the United States.²²

Table 2 sets forth the dollar amount of subsidies made available by the E.C. for poultry meat between 1967 and 1980. The increase in these expenditures in recent years has been spectacular. In 1967 the E.C. spent \$3.55 million on poultry subsidies. By 1980, the E.C. budgeted more than \$100 million for poultry export. The growth of the E.C.'s expenditures on poultry export refunds is pictured graphically in Chart 1, attached.

Table 3 establishes that the amount of export subsidy per pound of poultry meat is, to say the least, commercially significant. Table 3 traces the development since 1967 of the export refund for "70 percent" whole chickens (plucked and drawn without heads and feet, but with hearts, livers and gizzards). The category comprises the bulk of E.C. whole chicken exports to the non-E.C. world.²³ The subsidy level has always been

consistently in excess of six cents a pound or 20 percent of the average transaction price by E.C. producers in 1980. Thus, for example, applying a 1980 dollar—European Unit of Account (ECU) exchange rate (\$1.39/ECU) to the January 1980 subsidy level, a European poultry exporter could have obtained an export refund of approximately \$300 per metric ton of whole chicken exports.

2. *Segmentation of the Markets for Poultry Meat.* In order to evaluate the impact of the E.C.'s export refund on world markets, it is necessary to differentiate between at least four separate and distinct sub-markets for poultry meat—whole chickens, chicken parts, turkeys and turkey parts. The principal focus of our analysis will be on the market for whole chickens.²⁴ There are several reasons for this focus. In the first place, until recently the market for whole chickens has been the principal target of the E.C. export refund. During the first years of the Common Agricultural Policy in poultry meat, the export refund was available for all varieties of poultry products (*i.e.*, whole chickens, chicken parts, turkeys and turkey parts). Between 1974 and 1979, however, the subsidy was available *only* to exports of whole chickens to the major non-E.C. importing nations, including the USSR, Switzerland, Austria, and the countries of the Middle East. Recently, the subsidy has been extended once again to other poultry products including chicken parts, turkeys and turkey parts.

A second reason for viewing the market for whole chickens separately is its substantial size. During the period 1974–79, the non-E.C. market for whole chickens grew 185 percent. This was twice the growth rate for the market for other poultry products which grew 95 percent. Moreover, total exports of whole chickens to non-E.C. destinations during this period comprised about 65 percent of all poultry meat exports.

Finally, there are unique attributes of the markets for individual poultry products which require that such products as whole chickens or chicken parts be considered separately. These attributes are reflected in highly distinctive market demands which can be measured empirically by calculating the cross-elasticities of price/quantity among the different poultry categories. Such an analysis would show that the various products respond to different supply/demand conditions. In such an environment, product prices can and do move independently of each other.

Some of the factors contributing to the supply/demand differences are consumer incomes, price, taste preferences, traditional uses, product availability, cooking methods, distribution conditions and facilities, government policies and regulations. For example, less-developed countries with limited incomes may seek such poultry parts as necks, backs, and tails that provide much needed meat protein, but at the lowest possible costs. In other countries, such as Japan, dark chicken meat (legs) have proven to be a very good alternative or substitute for the increasingly more costly fish, an ingredient in many Japanese rice dishes. Since dark chicken meat prices in the United States are less than one-half white chicken meat prices, the Japanese receive substantial cost savings.

3. *The Impact of Export Refunds on World Markets.* An examination of the trade flows for whole chickens demonstrates that the E.C.'s export subsidy has made a substantial contribution to the E.C. producers' success in displacing U.S. exports in world markets.²⁵ At the time the E.C. first began subsidizing exports of whole chickens in 1967, the United States was supplying over 40 percent of the non-E.C. market for whole chickens (Table 4). The period 1967–1974 witnessed both an absolute and percentage decline in U.S. exports to the non-E.C. world. By 1974, the United States was able to capture only an 8.0 percent share of the non-E.C. market for whole chickens. The United States was able to recover some of its share of the market during the 1974–79 period when the world export market experienced its greatest absolute growth. It never regained, however, the position it occupied prior to 1967 when

²⁵ All export market share data in this petition and the accompanying tables is presented in terms of U.S. and E.C. shares of combined U.S. and E.C. exports. Of the major exporting nations, only the U.S. and E.C. countries disaggregate their data into subcategories of poultry meat (*E.g.*, whole chickens, chicken parts, turkeys and turkey parts). Even U.N. trade data is not disaggregated any further than the generic category "poultry meat." Therefore, it is impossible—given current data limitations—to ascertain U.S. or E.C. shares of world exports of particular products.

Aggregate poultry meat data compiled by the U.N., however, does reveal that between 1969 and 1979 the combined U.S.—E.C. share of world export trade in poultry meat among all reporting nations always exceeded 85 percent, and for most of the decade was in excess of 90 percent (U.N., Yearbook of International Trade Statistics (1979)). The only major exporting nations which are not reported in the U.N. data are the communist countries of East Europe, particularly Hungary and Poland. It should be noted, however, that most of these Eastern block exports either went to the U.S.S.R. or West Germany. These markets do not play a significant role in our analysis of market share displacement. In view of these facts, we can assume for purposes of our analysis that the inclusion of data from other, exporting countries, if such data were available, would not significantly alter the relationship of U.S. and E.C. market shares to each other. Therefore, comparing U.S. and E.C. shares of combined U.S. and E.C. exports to the non-E.C. world provides an adequate basis for determining whether U.S. exports are being displaced and whether E.C. producers have achieved more than an equitable share of export trade as a result of the E.C. export refund.

needed to produce one kilogram of poultry meat within the E.C. Reg. No. 2779/75 Art. 2, O.J. EUR. COMM. (No. L/282) 91 (1975).

¹⁶ O. J. EUR. COMM. (No. L/282) 90 (1975).

¹⁷ O. J. EUR. COMM. (No. L/218) 35 (1974).

¹⁸ O. J. EUR. COMM. (No. L/236) 16 (1974).

¹⁹ O. J. EUR. COMM. (No. L/267) 7 (1975).

²⁰ O. J. EUR. COMM. (No. L/122) 14 (1979).

²¹ O. J. EUR. COMM. (No. L/14) 18 (1980).

²² O. J. EUR. COMM. (No. L/14) 18 (1980).

²³ It should also be noted that the E.C. exports "85%" (plucked and gutted with heads and feet) and "65%" (plucked and gutted without heads and feet and without hearts, livers and gizzards) whole chickens in limited quantities and that these categories have likewise been eligible for the subsidy. Subsequent to 1974, the subsidy levels have been uniform for all three categories.

²⁴ The category of whole chickens includes broilers, fryers, roasters, and capons, as well as older whole fowl. For purposes of this petition, the U.S. category "whole chickens" includes both young whole chickens, (broiler, fryers, capons, and roasters), as well as older chickens. These products appear in Schedule E as Commodities 0114010 and 0114020. The E.C. category "whole chickens" includes 83% chickens (plucked and gutted with heads and feet), 70% chickens (plucked and drawn without heads and feet, but with hearts, livers and gizzards), and 65% chickens (plucked and drawn, without heads and feet and without hearts, livers, and gizzards). These comprise Eurostat-Ninix commodities 0202.1, 0202.03, and 0202.05 respectively. The U.S. Department of Agriculture has advised us that the aggregate U.S. and E.C. whole chicken categories are comparable.

the E.C. subsidy on poultry meat first went into effect. Moreover, a significant portion of U.S. growth during the 1974-79 period could be attributed to a few individual sales which were consummated after the E.C. had exhausted its production and therefore could not meet foreign demand.

The impact of the subsidy is particularly pronounced if one considers the 1974-79 period in terms of aggregate subsidized and non-subsidized markets. During this period, the export refund was available only to exports to the Middle East, non-E.C. Europe, the Mediterranean, Cuba, and Africa. In those markets where the subsidy was in effect, the E.C. captured anywhere from 81 percent to 99 percent of combined U.S.-E.C. whole chicken exports (Table 5). In those markets where the subsidy was not in effect, the E.C. export share steadily declined from 66 percent in 1975 to 13.4 percent in 1979. With the reimposition of the subsidy worldwide in 1980, the E.C. increased its share of U.S.-E.C. whole chicken exports from 13.4 percent to 71 percent in those countries to which the subsidy was not available between 1974 and 1979. The share of U.S. producers in both subsidized and non-subsidized markets is shown graphically in Chart 2, attached.

The data is equally revealing with respect to the impact of the subsidy on individual regional markets. Although insignificant until 1971-72, the Middle East market for whole chickens has grown rapidly (Table 6). Between 1975 and 1980, the market grew 300 percent. Today it comprises over half of the world market for whole chicken exports. Through this entire period, the E.C. subsidy has been continuously available, a fact reflected in the limited U.S. export performance. From 1971 to 1980, the U.S. share of the E.C.-U.S. exports of whole chickens exceeded 3 percent on only three occasions, and all three occasions were largely the result of certain individual transactions with Iraq. Over the entire period between 1971 and 1980, the United States captured only 11 percent of the entire market for whole chickens. The inability of U.S. producers to maintain an equitable share of the Middle East market is reflected graphically in Chart 3, attached.

The situation is mirrored in the non-E.C. countries of Europe (Table 7). Again the E.C. subsidy on whole chicken exports has been in effect continuously since 1967. The trade figures reveal continuous E.C. dominance throughout the 1970's. In fact after 1972, the U.S. share of combined U.S.-E.C. exports to this region never exceeded 8.5 percent. Although this dominance could be explained in part by the E.C.'s superior regional access, it is noteworthy that in the late 1960's and early 1970's when the United States imposed a subsidy of its own on exports to E.C. Switzerland and Austria in retaliation to E.C. export subsidies, the United States was able to gain a relatively strong foothold into this market. Moreover, during the three year period immediately prior to the subsidization, the United States captured over 28 percent of this market. It follows that the E.C.'s market advantage is largely a product of continuous subsidization.

The situation in the Middle East and the non-E.C. Europe is substantially reversed in

the Far East and Caribbean where U.S. producers have not always competed against the export refund. Between 1971 and 1974 when the Caribbean market first began to grow and the subsidy was in effect, the E.C. captured between 55 and 62 percent of the whole chicken market, despite the superior regional access of the United States (Table 8). Between 1974 and 1979, the E.C. eliminated the export refund for whole chicken exports. Following the removal of the subsidy in 1974, the E.C. share steadily declined from 53 percent in 1975 to a low of 27 percent in 1979.

The situation is even more pronounced in the Far East (Table 9). The whole chicken market only began to develop significantly in 1974, when the E.C. subsidy was in effect. In that year the E.C. gained substantially in all whole chicken sales. With the elimination of the subsidy, however, the United States began to achieve gradual dominance until its share of the market in 1979 exceeded 90 percent. With the reimposition of the E.C. subsidy in 1980, the trend has begun to reverse itself. Between 1979 and 1980, the E.C. share of combined U.S.-E.C. exports jumped from 7.8 percent to 14.5 percent, while the absolute volume of U.S. sales dropped 39 percent. Chart 4, attached, graphically illustrates the dramatic reversal of the U.S. producers' export performance when the E.C. subsidy was removed.

We shall now examine whether the E.C.'s bestowal of export refunds on poultry meat is consistent with the obligations imposed upon signatories to the General Agreement and the Subsidies Code.

III. The E.C.'s Export Refund on Poultry Meat is Inconsistent With the Obligations Undertaken by Signatories to the General Agreement and the Subsidies Code

A. *General Considerations.* The Subsidies Code specifically addresses the problem of export subsidies and establishes general standards of conduct with respect to the granting of export subsidies. It also establishes a series of formal mechanisms for resolving disputes in this area.

Article 8 of the Subsidies Code contains an agreement by the signatories that they will avoid causing, through the use of any subsidy, "serious prejudice to the interests of another signatory." Serious prejudice includes the threat of serious prejudice.²⁶ Serious prejudice may be demonstrated by showing "the effects of the subsidized exports in displacing the exports of like products of another signatory from a third country market."²⁷

The subsidization of primary agricultural products is governed by Article 10 of the Code. That provision reads:

Signatories agree not to grant directly or indirectly an export subsidy on certain primary products in a manner which results in the signatory granting such subsidy having more than an equitable share of world export trade, account being taken of the shares of the signatories in trade in the product concerned during a previous representative period and any special factors which may have affected or may be affecting trade in such products. (Emphasis added.)

²⁶ See footnote 3, supra.

²⁷ Subsidies Code, Art. 8, ¶ 4(c).

In attempting to clarify this provision, Article 10 of the Code repeats the admonition of Article 8 respecting displacement by providing that "more than an equitable share of world export trade" shall include any case in which the effect of an export subsidy granted by a signatory is to displace the exports of another signatory, bearing in mind developments on world markets. Article 10 provides that the previous representative period shall normally be the three most recent calendar years "in which normal market conditions existed."²⁸

The Subsidies Code further provides that signatories agree not to grant export subsidies on exports of certain primary products to a particular market in a manner which results in prices materially below those of other suppliers to the same market.²⁹

It is the contention of petitioners that the E.C. subsidy on poultry meat violates Article XVI of the General Agreement as well as the Subsidies Code in that this subsidy:

(1) has resulted in E.C. exporters having more than an equitable share of the world export trade in whole chickens within the meaning of Article XVI:3 of the General Agreement, as interpreted by Article 10 of the Subsidies Code;

(2) has resulted in prices for whole chickens which are materially below those of U.S. producers in specific world markets within the meaning of Article 10(3) of the Subsidies Code;

(3) threatens serious prejudice to U.S. poultry interests with respect to world export trade in whole chickens as well as chicken parts and turkeys and turkey parts within the meaning of Article 8 of the Subsidies Code.

We shall examine each of these contentions individually.

B. *E.C. Exporters of Poultry Meat Have More Than an Equitable Share of the World Export Trade in Whole Chickens.* In evaluating whether or not E.C. exporters have achieved more than an equitable share of world export trade in whole chickens, two issues must be examined.

Is it proper to determine equitable shares of the "world export trade" on the basis of market shares in individual regional markets?

What is an appropriate "previous representative period" upon which to determine equitable shares?

1. *Relevant Market.* The first issue which must be examined is whether the impact of the E.C. export subsidy on poultry meat is to be measured in terms of relative shares of all world export trade in a specific product or whether that impact may be measured by the evaluation of shares of export trade in individual regional markets. An examination of the language of the General Agreement and the Subsidies Code, as well as an examination of the decisions of various GATT panels interpreting that language, supports the use of an analysis of shares of export trade in various regional markets.

As originally drafted, Article XVI of the General Agreement consisted of a single paragraph requiring any contracting party that maintains a subsidy merely to notify

²⁸ Subsidies Code, Art. 10, ¶ 2(c).

²⁹ Subsidies Code, Art. 10, ¶ 3.

contracting parties to the extent, nature, and estimated effect and circumstances of the subsidy and to be prepared to consult as to possible injurious effects to other signatories.³⁰ At the Ninth Session of the Contracting Parties in 1955, Article XVI was expanded to prohibit export subsidies on "other than primary products."³¹ With respect to "primary products," signatories were not to apply subsidies which resulted in their "achieving more than an equitable share of world export trade, account being taken of the shares of the contracting parties in such trade in the product during a previous representative period, and any special factors which may have affected or may be affecting such trade in that product."³² The Article resulted in substantial criticism and uncertainty. From the outset critics asserted (with some justification) that the criteria used in determining "equitable share of world export trade" were ambiguous. The recently completed Subsidies Code has helped to resolve at least some of the ambiguity.

Article 8 of the Subsidies Code, in discussing the adverse effects to the interests of other signatories, establishes that serious prejudice may arise through: "... the effects of the subsidized exports in displacing the exports of like products of another signatory from a third country market."³³ (Emphasis added). Thus, serious prejudice may be measured by market displacement "in a third country market."

Furthermore, in interpreting Article XVI, paragraph 3 of the General Agreement, Article 10, paragraph 2 of the Code provides that "more than an equitable share of world export trade" shall include: any case in which the effect of an export subsidy granted by a signatory is to displace the exports of another signatory bearing in mind the developments on world markets.³⁴ (Emphasis added). Once again, the Subsidies Code envisions an examination of developments on individual world markets in order to determine whether a signatory has achieved "more than an equitable share of world export trade."

Finally, Article 10, paragraph 2(b) amplifies how the concept of equitable share of world export trade may be evaluated in connection with new markets:

"... with regard to new markets, traditional patterns of supply of the product concerned to the world market, region or country, in which the new market is situated shall be taken into account in determining equitable share of world export trade."

The inclusion of this provision dealing with new markets makes no sense whatsoever if the concept of "equitable share of world export trade" must be measured on the basis of worldwide market share. The language of the Subsidies Code, particularly the references to "markets" in the plural, demonstrates that the concept of world export trade can and should be measured in terms of relative market share in specific regional markets.

Prior to the drafting of the Subsidies Code, various GATT panels had failed to develop

an adequate definition of what constituted an equitable share of world export trade for the purpose of showing a subsidy in violation of the General Agreement. In the earliest challenge to an export subsidy under Article XVI:3 of the General Agreement, it was asserted that there was no statistical definition of an equitable share of world export trade.³⁵ Nevertheless, the panel focused its analysis on whether subsidized French wheat exports had displaced Australian exports to its traditional markets in Southeast Asia. This approach became the foundation upon which the Subsidies Code was drafted.

The recent complaint against an E.C. export refund, "European Communities, Refund on Exports of Sugar, Complaint by Brazil,"³⁶ exemplifies how the concept of displacement is to be applied. In that proceeding, the panel undertook a systematic analysis of data for imports of sugar into 31 countries which Brazil claimed constituted traditional outlets for Brazilian sugar, or new country markets located in those regions where Brazilian sugar had traditionally been offered for sale. The panel then compared Brazilian, E.C. and "other countries" shares of exports to these markets during the 1971-79 period to ascertain if there was a "significant" change in the relative positions of Brazil and the E.C. for this group of markets as a whole.

Thus, there is ample support in the Subsidies Code and prior interpretations by GATT panels for examining "equitable share" on the basis of patterns of trade in specific regional markets.

2. *Previous Representative Period.* In expanding Article XVI, the Ninth Working Session provided that in determining the equitable share of world export trade, account should be taken of the "shares of the contracting parties in such trade in the product during a previous representative period."³⁷ (Emphasis added). Prior to the adoption of the Subsidies Code, the GATT never directly addressed the issue of what constituted a representative period. The final GATT report entitled "Ninth Session Working Party on Other Barriers to Trade," does state, however, that in determining what are "equitable shares" of world trade, the contracting parties should not lose sight of: "... the fact that export subsidies in existence during the selected representative period may have influenced the share of the trade obtained by the various exporting countries."³⁸

This attempt at clarification demonstrates that the draftsmen recognized that the existence of export subsidies could distort the patterns of trade established during the "selected representative period." Certainly the trade data available in the instant case (See Tables 4-9) demonstrate conclusively that substantial export subsidies in fact have distorted normal patterns of trade. The

concern expressed in the Ninth Working Session was acted upon during the Multilateral Trade Negotiations. There, the drafters of the Subsidies Code dealt with this problem when they added a definition of the term "previous representative period." It is now clear that a representative period must include a time in which "normal market conditions existed."³⁹ (Emphasis added).

In attempting to establish a prior representative period in the instant case, it is essential that one recognize that the subsidies made available by the E.C. for poultry exports are both commercially significant and trade distorting. The availability of the E.C.'s trade distorting subsidies is essentially incompatible with the notion of "normal market conditions." Accordingly, in order to establish a prior representative period in the present case, one must necessarily look to a period of time where export refunds were not available in a particular regional market.

In the case of the Middle East, for which export subsidies have been available since 1967, this may require one to examine patterns of trade which prevailed a number of years ago. Such an approach is, however, consistent with the approach of the GATT panel in the French Wheat Flour case.⁴⁰ There the GATT panel reviewed French wheat and wheat flour exports between 1954 and 1957, a period in which the absolute volume of exports, as well as the relative French market share, increased substantially. In the only reference to a prior "representative period," it was noted that the absolute quantity of exports began to rise in 1954 "to levels very substantially exceeding the quantities exported in any year since 1934 and remained considerably higher than in pre-war or early post-war years."⁴¹ In effect, the previous representative period was the twenty years proceeding the 1954 volume increases.

The flexibility of GATT panels in ascertaining prior representative periods in the face of trade distorting events was amply demonstrated in a recent decision.⁴² The Panel noted that the Australian Complaint referred to the post-1975 period. However, regarding the years preceding that period, the panel felt that 1975 was not sufficiently representative since world prices were abnormally high in 1974-75. The panel then continued its analysis:

The strong rise in sugar prices in 1974 was mainly due to the fact that for the fourth successive year total world consumption exceeded world production and stocks were declining, and the supply situation was particularly bad in Europe. Mainly due to a bad crop in 1974, there was a shortage of sugar in the European Communities in 1974-1975, and some exports were delayed from

³⁰ Subsidies Code Art. 10, § 2(c).

³¹ GATT, "French Assistance to Export of Wheat and Wheat Flour," Basic Instruments and Selected Documents, 7th Supp. (1959).

³² GATT, "French Assistance to Export of Wheat and Wheat Flour," *supra*, at 53.

³³ GATT, "European Communities—Refunds on Exports of Sugar, Complaint by Australia," GATT Docs. L/4833 (October 25, 1979) [hereinafter the "Australian Sugar Case"].

³⁴ GATT, "French Assistance to Export of Wheat and Wheat Flour," Basic Instruments and Selected Documents, 7th Supp., at 52 (1959).

³⁵ GATT, "European Communities—Refund on Exports of Sugar, Complaint by Brazil," GATT Docs. L/5011 (October 7, 1980).

³⁶ General Agreement, Art. XVI, § 3.

³⁷ GATT, Basic Instruments and Selected Documents, 3d Supp., at 226 (1955).

1975 to 1976. The Panel also had some doubts as to whether 1974 would qualify as a fully representative year, but nevertheless thought that the years 1972 to 1974 would still be an acceptable approach. The three most recent calendar years for which market conditions could be considered as normal were then 1971 to 1973, or with some reservations 1972 and 1974. Furthermore, 1977 could also be compared to an average of 1972, 1973 and 1976. In view of the difficulties involved in selecting what could be considered to be the "previous representative period," the Panel felt it necessary to consider various alternatives and to make a set of comparisons.⁴² (Emphasis added).

In the present proceeding, the subsidies under investigation were in effect for different periods of time with respect to individual world markets. Since the availability of these subsidies has clearly created distortions in patterns of trade, a GATT panel attempting to establish a prior representative period against which to measure the impact of these subsidies will undoubtedly be required to use a flexible and pragmatic approach.

We shall now examine the serious prejudice which U.S. producers have experienced in various world markets on account of the E.C.'s export refunds for poultry meat.

3. *Displacement of U.S. Exports in Specific Regional Markets.* (1) *Middle East.* In the largest of the whole chicken export markets, the Middle East, a subsidy has been in effect for whole chicken exports every year since 1967. During this period, U.S. exports have been insignificant. To find a previous representative period during which time normal market conditions existed, it is necessary to go back to the three-year period preceding 1967 (Table 6). Between 1964-1966, a total of 4582 metric tons of poultry meat were sold by the U.S. and E.C. in the Middle East. The U.S. gained about 96% of these sales. The United States was able to continue this respectable performance through the first years of the E.C. export refund. By 1970, however, the impact of the E.C. subsidy had been felt, and the E.C. had all but displaced the United States in the region. Consequently, when the market started to experience dramatic growth in the early 1970's, the E.C. was positioned to take full advantage of this growth. Furthermore, the E.C. calibrated its refund so that between 1977 and 1979, when the market experienced its greatest growth, the E.C. poultry meat refund was at its highest levels. Chart 3, attached, graphically illustrates that U.S. producers have, by any measure, been denied an equitable share of this important market.

2. *Non E.C. Europe.* The situation in the Middle East has been mirrored in the non-E.C. countries of Europe. The E.C. refund has been in effect every year since 1967. Only for a short time in the late 60's and early 70's has the U.S. share of combined U.S.-E.C. trade exceeded 10 percent. Otherwise, during the entire 1967-80 period, the United States gained only 8.3 percent of total export sales of whole chickens to the region (Table 7). If

we consider the three years prior to the imposition of the subsidy (1964-1966) as representative of normal market conditions, we would find that the U.S. had gained 28 percent of the total U.S.-E.C. sales. Again, the evidence of market displacement as a direct result of the refund is overwhelming.

3. *Caribbean.* In the Caribbean, U.S. exports of whole chicken remained constant about 3000 metric tons per annum until 1975, when they began to grow substantially (Table 8). The year 1975 was the first full year following the removal of the E.C. subsidy to this region. Between 1977 and 1979, U.S. exports to this region increased at an average annual rate of 116 percent. Moreover, the U.S. share of total U.S.-E.C. exports to the region grew from 48.8 percent in 1977 to 73.3 percent in 1979. These are the three most recent years in which normal market conditions existed and form a representative period for purposes of an Article 10 analysis. In 1980, the E.C. made the refund available again and not surprisingly the rate of growth of U.S. exports declined to 11.4 percent. Although E.C. exports remained stable during 1980, early figures from 1981 indicate some displacement is already taking place.

4. *Far East.* The situation in the Far East is equally revealing (Table 9). As in the Caribbean, the export refund was repealed in mid-1974, at which time U.S. exports of whole chickens to the Far East were insignificant. Beginning in 1975, U.S. exports began increasing steadily. The U.S. share of total U.S.-E.C. trade to the region grew from 23.5 percent in 1975; to 60.9 percent in 1976; to 86.1 percent in 1977; to 89.2 percent in 1978; to 92.2 percent in 1979. The fact that normal competitive conditions were in effect was critical factor in this growth.

In 1980, the E.C. reimposed the subsidy. Almost immediately, E.C. exports reversed their steady decline of the previous three years. Moreover, U.S. exports actually declined 40 percent in 1980, as volume decreased 4000 metric tons. These figures would indicate that the process of displacement is underway.

Under the legal principles outlined above, there can be no doubt that E.C. producers have gained more than an equitable share of world export trade in whole chickens. This fact is reflected by the displacement of U.S. whole chicken exports suffered by U.S. producers in specific regions as a direct result of the E.C. export refund. The extent of such displacement is evident when measured in terms of lost sales opportunities to the Middle East.

Between 1971 and 1980, the market for whole chicken exports in the Middle East grew 83 times. Over this period, the United States captured only 11 percent of combined U.S.-E.C. exports. Assuming the United States had captured even an additional one percent of this export market, U.S. producers would have sold an additional \$12 million of exports. Had the United States captured half of the combined E.C.-U.S. export market for whole chickens to the Middle East during this period, it would have earned an additional half billion dollars in export sales. A fifty percent share is not an unreasonable prospect when one considers that during the presubsidization period, U.S. producers

obtained a better than a ninety percent share of the combined U.S.-E.C. Middle East market (Table 6). Similar displacement in non-E.C. Europe also supports the conclusion that E.C. producers have been able to attain more than an equitable share of world export trade in whole chickens.

C. *Material Price Undercutting.* Under Article 10 of the Subsidies Code, the signatories agreed "not to grant export subsidies of certain primary products to a particular market in a manner which results in prices materially below those of other suppliers to the same market."⁴³ The E.C. subsidies on whole chickens violate this prohibition by allowing substantial price undercutting of American exports to markets where the subsidies are in effect.

Prices and subsidies on French exports to Egypt provide one example of how the E.C. subsidy results in material undercutting. The average export unit value of French whole chickens exported to Egypt in 1979 was \$1102 per metric ton, or 49.9 U.S. cents per pound. In comparison, the average value of U.S. whole chicken exports was \$1142 per metric ton or 51.7 cents per pound. Taking into account the E.C. subsidy of approximately \$330 per metric ton, the presumed French export price would be \$1432 per metric ton or 64.9 cents per pound. Even with the higher U.S. transportation costs to Egypt, U.S. export prices would be competitive with those of E.C. exporters were it not for the subsidy. The table below illustrates this conclusion.

CONSTRUCTED 1979 EXPORT SALE TO EGYPT

(In dollars per metric ton)

	France	U.S.
Export price without benefit of subsidy ¹	1,432	1,142
Transportation cost (estimate)	110	225
Delivered cost without subsidy	1,542	1,367
E.C. subsidy	330	0
Delivered cost with subsidy	1,212	1,367

¹ Export unit value plus the amount of subsidy.

Thus, without the subsidy, E.C. export prices would be far higher than those of U.S. producers. The subsidy alone allows E.C. prices to be materially below those of U.S. producers.

Recent information concerning bids made on "Egyptian Free Dollar Tenders" demonstrates that price undercutting continues as a result of the subsidy.

Bid opening date: May 26, 1981

	Free dollar tender 5,000 MT shipment June/ July 1981
(1) French Embassy/Cairo: 5,000 MT— Shipment June/July 1981	1,422 C&F Port Said
(2) Denmark Chicken Board, 1,000 MT	1,453 C&F Alex.
(3) Misso (France): 10,000 MT—Brazil origin	1,415 C&F Alex.
(4) Spring Valley (U.S.): 5,000 MT—2,500 MT	1,439 C&F
2,500 MT	1,459 C&F
(5) Gold Kist Inc. (U.S.): 5,000 MT	1,504 C&F

⁴³ Subsidies Code, Art. 10, § 3.

⁴² GATT, Australian Sugar Complaint, *supra*, at 19.

It is obvious that without the 1981 subsidy level of \$140 per metric ton the U.S. firms would have been the two lowest bidders.

These examples of sales of whole chickens to Egypt are but two examples of the material price undercutting encouraged by the E.C. subsidy. Although U.S. producers on occasion do win sales despite the presence of E.C. subsidized competition, the E.C. subsidy is designed to and usually permits E.C. producers to underbid materially their U.S. competition. Aggregate figures for export sales of whole chickens to the non-E.C. world show that, even if one assumes U.S. transportation costs at extremely high levels, the E.C. subsidy allows E.C. sales at prices much below those of U.S. producers.

CONSTRUCTED 1979 EXPORT SALE OF WHOLE CHICKEN TO NON-E.C. WORLD

(In dollars per metric ton)

	France	United States
Export price without benefit of subsidy ¹	1,470	1,060.
Transportation cost (estimate)	150	300 to 450.
Delivered cost without subsidy	1,620	1,360 to 1,530.
E.C. subsidy	330	0.
Delivered cost with subsidy	1,290	1,360 to 1,530.

¹ Export unit value plus the amount of subsidy.

The E.C.'s attainment of more than an equitable share of the world market in whole chickens is due solely to its ability to price its product materially below the U.S. competition. That price undercutting ability, in turn, is made possible by the E.C. export subsidy. The causal nexus between subsidy and market share is clear and unmistakable. The E.C. bestowal of export refunds is in clear violation of Article 10, paragraph 3 of the Subsidies Code.

D. The E.C. Export Refund on Poultry Meat Threatens to Prejudice the Interest of American Producers. "Prejudice to the interests of another signatory" as used in Article 8 of the Subsidies Code also includes the threat of serious prejudice. Such threat manifests itself not only with respect to further displacement of U.S. whole chicken export sales,⁴⁶ but also with respect to future exports of chicken parts, turkeys, and turkey parts. This threat of serious prejudice results from three factors. First, the scope of the products eligible for subsidy by the E.C. has been expanded to include chicken parts and turkeys and turkey parts. Second, the geographic areas for which exports may be entitled to a subsidy have been expanded to include the entire non-E.C. world except the United States. Third, there is virtually no control under E.C. regulations to discourage production of surplus poultry products, nor is

there any apparent limit on the amount of funds available from the E.C. for awarding subsidies. These factors, coupled with the generous subsidies available from the Government of France, have encouraged the creation of French poultry processing facilities completely dedicated to the export market. The threat of serious prejudice posed by these subsidies is inconsistent with the undertakings of both the E.C. and the Government of France under Article 8 of the Subsidies Code.

As noted above, starting in mid-1979, the E.C. expanded its subsidy program to include chicken parts, turkeys and turkey parts. By January of 1980, the subsidy program was extended to the entire non-E.C. world except the United States.⁴⁶

Not only has the product scope and the geographic scope of the E.C. subsidy program expanded, there is apparently no limit on the amount of money available to fund the subsidy program. Chart 1 depicts in graphic form the amount of money expended upon poultry subsidies since 1967. Starting with a rather modest amount of \$3.3 million in 1967, the amount of E.C. subsidies has grown astronomically to well in excess of \$100 million in 1980. An examination of the actual amount expended, however, tells only part of the story. Between 1977 and 1979, the E.C. appropriated approximately \$93 million for poultry meat subsidies. Final expenditures, however, totaled \$146 million during this three year period. In other words, E.C. expenditures exceeded appropriations by sixty percent. From what one can judge, there are no effective administrative controls on E.C. expenditures for poultry subsidies.

In a recent complaint by Brazil against the E.C. refunds on exports of sugar,⁴⁷ a GATT panel took note of the "non-limited amounts" available to cover export refunds of sugar. The panel found that this open-ended commitment on the part of the E.C., when combined with the amount of E.C. sugar available for export, created a permanent source of uncertainty in world sugar markets and therefore constituted a threat of serious prejudice in terms of Article XVI:1 of the General Agreement. The open-ended financial commitment to poultry meat subsidies by the E.C., coupled with the volume of exportable surpluses within the E.C., demonstrates that a threat of serious prejudice confronts U.S. producers for the same reasons that such a threat was found in the case of Brazilian sugar.

The threat to U.S. poultry producers can also be measured in terms of the prior export performance of French producers. France exported 238,000 tons of poultry meat in 1980, compared with 181,000 in 1979 and 132,000 in 1978. This represents export growth of approximately 35 percent per year. In 1980, 207,980 tons of France's poultry meat exports were broilers.⁴⁸ Practically all of these exports originated with three companies in the province of Brittany—Doux, S.A. Tilly et Cie and Bernard. Each of these companies operates plants that are dedicated to

producing frozen, packaged broilers for the export market. We are informed that the production from these plants is not officially welcome on France's domestic market—indeed the French people prefer to consume fresh rather than frozen broilers. We are not dealing with a program designed to get rid of occasional production surpluses in the export market. On the contrary, the E.C. subsidy program has helped to create a formidable export industry which threatens to dominate world trade in poultry meat.

The seriousness of this threat to U.S. exporters of chicken parts, turkeys and turkey parts may be gauged by the success which E.C. producers have had using subsidies to gain more than an equitable share of export trade in whole chickens. Petitioners contend that the recent expansion of this refund to new poultry products threatens a similar result with the United States again the principal victim.

The market for chicken parts has always been the most successful of the U.S. poultry export markets (Table 10). Following the withdrawal of subsidies for chicken parts in 1974, the U.S. share of this market increased steadily. By 1980, it has gained over 90 percent of combined U.S.-E.C. exports of this poultry to the non-E.C. world. Recent developments, however, suggest the future may not be so bright. The E.C. made the export refund available to chicken parts in June 1979. Trade figures for the past two years reveal E.C. exports of chicken parts have grown a respectable 12.5 percent. Moreover, there is evidence that French poultry processing plants, built primarily for exports, are for the first time capable of processing parts. This suggests a conscious effort on the part of the French to go after the parts market, particularly in light of the availability of the subsidy. In any event, a threat exists to the U.S. producer, and Petitioners call on the U.S. Government to act upon this threat.

A similar threat exists with respect to turkeys and turkey parts. As will be discussed below, the French Government has undertaken to expand its subsidization program in a manner which now threatens the U.S. turkey export market. Although it is too early to show actual trade distorting effects resulting from this program, the most recent trade data from the E.C. indicates an unusual increase in French turkey exports to markets previously served by the U.S. Moreover, the E.C. reimposed its refund on turkeys and turkey parts in 1980. The impact of this subsidy could be reflected as early as 1981. For the last five years, the U.S. has gained over 90 percent of total U.S.-E.C. turkey sales to the non-E.C. world. The combined impact of the export refund and French subsidization program clearly threatens that position.

There is also the threat to U.S. whole chicken exports in those markets which the United States developed between 1974 and 1979, when the E.C. has repealed its refund to certain regions. There are already indications that the E.C. countries are intensifying their marketing efforts in some of these areas. As noted previously, there is evidence of limited displacement of U.S. sales in the Far East and

⁴⁶ Note that U.S. producers have already experienced significant market displacement in the sale of whole chickens to specific regional markets where the E.C. has maintained subsidies consistently for a number of years. Previous displacement may be addressed under Article 10 of the Subsidies Code. The recent expansion of the subsidy program for whole chickens to other regional markets (e.g., the Caribbean, Far East) threatens serious prejudice and should be addressed under Article 8 of the Subsidies Code.

⁴⁷ See text accompanying footnotes 16-21.

⁴⁸ "European Communities—Refund on Exports of Sugar Complaint by Brazil," GATT Docs. L/5011 (Oct. 7, 1980).

⁴⁹ Data source: Eurostat-Nimex, 1980 Microfiche.

Caribbean. But the threat, once the E.C. countries develop these markets, is even greater. A loss of even a five percent market share of whole chicken exports in the Far East and Caribbean markets would result in an annual loss of \$2.5 million in export sales by U.S. producers. Such a loss is not inconceivable as our experience in the Middle East has already shown.

The recent expansion of the E.C.'s export subsidy program to include worldwide subsidization of whole chickens, chicken parts, whole turkeys and turkey parts coupled with the seemingly unlimited amount of funds available for poultry subsidies creates a substantial threat of serious prejudice for U.S. producers. The market displacement which has already taken place in whole chickens provide a graphic illustration of what will take place if the expanded subsidy program is not eliminated.

IV. Export subsidies by the Government of France Are Inconsistent with the Obligations Undertaken by Signatories to the General Agreement Under the Subsidies Code

The French Government has recently undertaken a massive subsidization of its food processing industry. As part of the program, the government has set an initial budget of \$40 million to form the capital for a new body—Institut de Développement des Industries Agro-Alimentaires—which will distribute subsidies to the French food processing industry. In the words of one former French official, the aim of the program is to create companies large enough to compete on a European or world scale. Recently, the French turkey industry has been a beneficiary of this program. In the form of a major processing plant in Brittany. Among the government's contributions to the construction of this plant are: (1) capital grants totalling 35 percent of initial investments; (2) discounts of 25 percent or more on the cost of the land for new turkey factories; (3) capital loans of 3-5 percent below the normal minimum rate; (4) reconversion fund loans at 3-5 percent which do not have to be paid back unless the processor makes a profit; (4) training grants in which the government pays 100 percent of wages during the training period and 30 percent of the wages from the end of the training period until the new employee has worked for six months; (5) subsidization of livestock housing; (6) land loan facilities costing 6 percent for first 10 years, then 10.8 percent on 60 percent of the purchase cost.

It is Petitioners' understanding that these subsidies are designed solely for the development of export industries. Public statements of French officials suggests that the availability of these subsidies is contingent upon their being used to develop an export facility. Furthermore, the fact that the turkeys and broilers produced in the Brittany facility are processed in a way that would preclude their being sold in the French market (the French prefer fresh rather than frozen poultry) again suggests that the new facility was established specifically to prepare products for export.

Articles 8 and 10 of the Subsidies Code apply to both direct and indirect export subsidies. Since subsidized poultry meat

production facilities in France are substantially dedicated to the export market, the type of subsidy described above represents a very potent indirect export subsidy. Coupled with the E.C.'s export refund, these subsidies pose a significant threat to U.S. producers.

It is too early to evaluate the trade distorting impact of these subsidies on U.S. exports of turkey since these facilities have only recently become operational. It should be noted, however, that E.C. exports of turkeys and turkey parts to the non-E.C. world doubled between 1979 and 1980 (Table 11). A substantial portion of this increase came from France. Moreover, between 1979 and 1980, U.S. exports of turkeys and turkey parts to the E.C. declined by 25 percent and 13.7 percent respectively. Although total U.S. sales of turkey meat increased from 10,127 metric tons in 1979 to 23,410 metric tons in 1980, almost the entire increase can be attributed to the sale of 10,570 metric tons of turkey parts to Egypt. In 1979, Egypt purchased 151 metric tons. Therefore, early indications of displacement are already present in the export market for turkeys. When the largest of these subsidized export facilities in France reaches its ultimate capacity goal of 20 million turkeys a year, the U.S. share of the world turkey market could decline substantially.

Information out of the United Kingdom indicates that British turkey prices are beginning to fall, thereby threatening the existence of the British turkey industry. Moreover, the British allege that the decline in prices is a result of the fact that French turkeys, processed in the Brittany facility, are actually undercutting British turkeys in the British market. In any event, there looms a threat to U.S. producers that similar price developments may transpire in export markets traditionally the province of the United States and that the United States will not be able to compete with France on the basis of price.

V. Relief Requested

Based on the foregoing, Petitioners respectfully request that the President, pursuant to section 301 of the Trade Act of 1974, as amended, 19 U.S.C. 2411 (Supp. III 1979), take all appropriate and feasible steps within his power to obtain the elimination of the European Economic Community's export refund on poultry meat and all indirect subsidies by the Government of France for facilities dedicated to the exportation of poultry meat. Such efforts should include making use of the consultation, conciliation and dispute settlement mechanisms as provided by Articles 12 and 13 of the Subsidies Code. In the event such steps fail to bring about a resolution of the issue, the President should undertake such countermeasures as are authorized under section 301 of the Trade Act of 1974, as amended, and as are permitted under the General Agreement.

Any questions regarding this petition should be directed to Paul D. Cullen at the address noted below.

Respectfully submitted,
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Dated: September 17, 1981.

TABLE 1.—PRODUCTION AND EXPORT OF POULTRY MEAT

(1,000 metric tons)

	Pro- duction	U.S. ex- ports	Per- cent ex- ports	Pro- duction	E.C. ex- ports	Per- cent ex- ports
1964	3,494	98	2.8	1,881	175	9.3
1965	3,713	83	2.2	2,009	206	10.3
1966	4,048	73	1.8	2,181	215	9.9
1967	4,218	65	1.5	2,216	243	10.9
1968	4,120	66	1.6	2,300	259	11.3
1969	4,340	59	1.3	2,453	277	11.2
1970	4,651	62	1.3	2,652	342	12.8
1971	4,691	59	1.2	2,766	369	13.3
1972	4,923	65	1.3	3,020	397	13.1
1973	4,875	72	1.4	3,192	409	12.8
1974	4,941	76	1.6	3,148	423	13.4
1975	4,945	95	1.9	3,134	421	13.4
1976	5,365	183	3.3	3,348	463	13.8
1977	5,535	189	3.4	3,464	526	15.2
1978	5,880	194	3.3	3,594	530	14.7
1979	6,507	228	3.5	3,678	602	16.4
1980	6,647	266	4.3	3,831	643	16.8
1981 (est.)	7,016	307	4.4	3,927	679	17.3

SOURCE: U.S. Department of Agriculture, Foreign Agricultural Service.

TABLE 2.—E.C. EXPENDITURES ON POULTRY MEAT SUBSIDIES

(1967-1980)

	European units of account	Dollars
1967	3,355,000	1 3,355,000
1968	4,685,662	4,685,662
1969	4,981,054	4,981,054
1970	8,211,000	8,211,000
1971	10,820,000	11,341,719
1972	10,477,261	11,758,991
1973	17,764,037	21,903,868
1974	12,334,860	14,719,403
1975	4,106,198	5,103,352
1976	7,752,746	8,671,975
1977	17,441,469	19,910,352
1978	30,546,498	38,962,369
1979	63,483,083	87,082,390
1980	72,000,000	100,278,550
1981	78,400,000	79,966,000

¹ Dollar conversions based on average annual exchange rate provided in the General Budget of the European Communities.

² Appropriation Figures—exact data on expenditures not available.

SOURCE: General Budget of the European Communities.

TABLE 3.—E.C. SUBSIDY LEVEL FOR WHOLE CHICKENS

	Effective date	70 per- cent ¹	Dollars per pound ²	Area
1967	7/1	16.25	.07	Worldwide.
	10/1	16.25	.07	Worldwide.
1968	2/1	16.25	.07	Worldwide.
	5/1	16.25	.07	Worldwide.
	8/1	16.25	.07	Worldwide.
	11/1	16.25	.07	Worldwide.
1969	8/1	16.25	.07	Worldwide.
	11/1	16.25	.07	Worldwide.
1970	2/1	16.25	.07	Worldwide.
	5/1	16.25	.07	Worldwide.
	8/1	16.25	.07	Worldwide.
	11/1	16.25	.07	Worldwide.
1971	2/1	16.25	.08	Worldwide.
	4/1	16.25	.08	Greece, Switzerland, USSR.

TABLE 3.—E.C. SUBSIDY LEVEL FOR WHOLE CHICKENS—Continued

	Effective date	70 percent ¹	Dollars per pound ²	Area
1972	5/1	12.90	.06	Rest of World.
		16.25	.08	Greece, Switzerland, USSR.
	8/1	12.90	.06	Rest of World.
		16.25	.06	Greece, Switzerland.
	11/1	12.76	.06	Rest of World.
		16.25	.08	Greece, Switzerland.
		12.76	.06	Rest of World.
	2/1	16.25	.07	Greece, Switzerland.
		12.76	.06	Rest of World.
	5/1	16.25	.07	Greece, Switzerland.
1973		12.76	.06	Rest of World.
	5/17	17.38	.09	Greece, Switzerland.
		13.89	.07	Rest of World.
	8/1	17.38	.09	Greece, Switzerland.
		13.89	.07	Rest of World.
	11/1	17.38	.09	Greece, Switzerland.
		13.89	.07	Rest of World.
	2/1	17.38	.10	Greece, Switzerland.
		13.89	.08	Rest of World.
	5/1	11.50	.06	Worldwide.
1974		9.99	.06	Worldwide.
	8/1	8.47	.05	Worldwide.
	11/1	8.43	.04	Worldwide.
	2/1	3.03	.02	Worldwide.
	5/1	12.00	.07	Worldwide.
	7/1-8/1			Worldwide.
	8/15	11.00	.06	Europe, Middle East, Mediterranean.
	9/1	11.00	.06	Europe, Middle East, Med.
	11/11			Worldwide.
	2/1			Worldwide.
1975	5/1			Worldwide.
	6/1	5.00	.03	Middle East, Europe, Med. and Cuba.
	8/1	5.00	.03	Middle East, Europe, Med. and Cuba.
	11/1	5.00	.03	Middle East, Europe, Med. and Cuba.
	2/1	5.00	.03	Middle East, Europe, Med. and Cuba.
	5/1	5.00	.03	Middle East, Europe, Med. and Cuba.
	6/1	8.50	.04	Middle East, Europe, Med. and Cuba.
	11/1	8.50	.04	Middle East, Europe, Med. and Cuba.
	2/1	8.50	.04	Middle East, Europe, Med. and Cuba.
	4/15	12.00	.06	Middle East, Europe, Med. and Cuba.
1976	7/1	12.00	.06	Middle East, Europe, Med. and Cuba.
	10/1	12.00	.06	Middle East, Europe, Med. and Cuba.
	11/1	12.00	.06	Middle East, Europe, Med. and Cuba.
	2/1	15.00	.09	Middle East, Europe, Med. and Cuba.
	5/1	15.00	.09	Middle East, Europe, Med. and Cuba.
	5/10	22.00	.13	Middle East, Europe, Med. and Cuba.
	8/15	22.00	.13	Middle East, Europe, Med. and Cuba.
	11/1	22.00	.13	Middle East, Europe, Med. and Cuba.
	2/1	22.00	.14	Middle East, Europe, Med. and Cuba.
	5/1	27.00	.17	Middle East, Europe, Med. and Cuba.
1977	6/1	27.00	.17	Middle East, Europe, Med. and Cuba.
	8/5	25.00	.16	Middle East, Europe, Med. and Cuba.
	11/1	25.00	.16	Middle East, Europe, Med. and Cuba.
	1/12	22.00	.14	Worldwide, except U.S.
	4/14	19.00	.12	Worldwide, except U.S.
	10/8	18.00	.11	Worldwide, except U.S.
	12/9	15.00	.09	Worldwide, except U.S.
	4/9	13.50	.06	Worldwide, except U.S.
				Worldwide, except U.S.
				Worldwide, except U.S.

¹ Subsidy levels are for "70%" chickens, defined as "plucked and drawn without heads and feet, but with hearts, livers and gizzards." These comprise the principal portion of E.C. whole chicken exports.

² Conversions based on average annual exchange rates provided in the General Budget of the European Communities.

SOURCE: Official Journal of the European Communities (Figures in E.C. Units of Account/100 kg).

TABLE 4.—U.S.—E.C. Exports of Whole Chickens to the Non-E.C. World (1967-1980)

Revised 9/29/81		
[In metric tons]		
	U.S. exports ¹ (percent)	E.C. exports ²
1967	12,581 (40.8)	18,187 (59.2)
1968	10,661 (37.3)	17,878 (62.7)
1969	10,757 (36.3)	18,825 (63.7)
1970	11,759 (19.0)	50,048 (81.0)
1971	10,681 (16.0)	56,046 (84.0)
1972	10,552 (19.4)	43,826 (80.6)
1973	7,822 (9.7)	72,631 (90.3)
1974	9,967 (8.6)	106,259 (91.4)

TABLE 5.—U.S.—E.C. EXPORTS OF WHOLE CHICKENS TO SUBSIDIZED & NON-SUBSIDIZED AREAS¹

Revised 9/29/81				
	Areas subsidized by E.C. ²		Areas not subsidized by E.C.	
	U.S. exports (percent)	E.C. exports (percent)	U.S. exports (percent)	E.C. exports (percent)
1967	12,581 (40.8)	18,187 (59.2)		
1968	10,661 (37.3)	17,878 (62.7)		
1969	10,757 (36.3)	18,825 (63.7)		
1970	11,759 (19.0)	50,048 (81.0)		
1971	10,681 (16.0)	56,046 (84.0)		
1972	10,552 (19.4)	43,826 (80.6)		
1973	7,822 (9.7)	72,631 (90.3)		
1974	9,967 (8.6)	106,259 (91.4)		
1975	760 (0.9)	82,249 (99.1)	11,722 (34.3)	22,455 (65.7)
1976	29,971 (19.1)	127,149 (80.9)	27,356 (68.5)	12,605 (31.5)
1977	29,788 (13.6)	189,316 (86.4)	30,980 (74.0)	10,880 (26.0)
1978	5,786 (3.2)	172,814 (96.8)	51,969 (80.0)	13,002 (20.0)
1979	18,407 (7.2)	237,506 (92.8)	86,049 (86.6)	10,191 (13.4)
1980	138,602 (30.5)	315,517 (69.5)		

¹ Between 1967-1974 the E.C. subsidy on all chicken exports was worldwide. In July 1974, the subsidy was eliminated except for whole chickens and applied only to the Middle East; the non-E.C. European countries, and certain countries bordering on the Mediterranean. In September 1974, Cuba and the Canary Islands were added, and in November of 1975, the rest of Africa was added. In January 1980, the subsidy was reimposed worldwide.

² U.S. data from U.S. Department of Commerce, Schedule B Export data; E.C. data from Eurostat-Nimex.

TABLE 6.—U.S.—E.C. EXPORTS OF WHOLE CHICKENS TO THE MIDDLE EAST (1964-1980)

Revised 9/29/81		
[In Metric tons]		
	U.S. exports ¹ (percent)	E.C. exports ² (percent)
1964	1,594 (95.8)	89 (4.2)
1965	1,271 (93.9)	83 (6.1)
1966	1,521 (97.1)	44 (2.9)
1967	568 (56.7)	434 (43.3)
1968	454 (59.3)	312 (40.7)
1969	104 (13.4)	673 (86.6)
1970	181 (9.5)	1,728 (90.5)
1971	112 (3.0)	3,665 (97.0)
1972	67 (1.0)	8,403 (99.0)
1973	190 (1.2)	16,157 (98.8)
1974	1,618 (3.2)	48,219 (96.8)
1975	563 (1.0)	59,035 (99.0)
1976	29,025 (25.1)	86,368 (74.9)
1977	15,375 (12.3)	106,184 (87.7)
1978	773 (5.5)	141,581 (94.5)
1979	4,362 (3.1)	135,971 (96.9)
1980	44,023 (16.4)	195,310 (83.6)

¹ U.S. Bureau of the Census, Dept. of Commerce, Schedule B, U.S. Exports of Domestic Merchandise (1958-1964: 00341 + 00345; 1964-1967: 011.4010 + 011.4020; 1967-: 011.4005 + 011.4015).

² Eurostat-Nimex (1958-1966: 011.4; 1966-74: 00202.11; 1975-: 0202.01-05).

³ U.S. data converted from pounds to m.t. using 454g/lb conversion factor.

TABLE 7.—U.S.—E.C. Exports of Whole Chickens to the Non-E.C. World (1967-1980)—Continued

Revised 9/29/81		
[In metric tons]		
	U.S. exports ¹ (percent)	E.C. exports ²
1975	12,482 (10.7)	104,704 (89.3)
1976	57,327 (29.1)	139,753 (70.9)
1977	60,766 (23.3)	200,199 (76.7)
1978	57,755 (23.7)	185,816 (76.3)
1979	84,456 (25.4)	247,697 (74.6)
1980	138,602 (30.5)	315,517 (69.5)

¹ U.S. Bureau of the Census, Dept. of Commerce, Schedule B, U.S. Exports of Domestic Merchandise (Schedule B 011.4005 + 011.4015).

² Eurostat-Nimex (1970-1974: 0202.11; 1975-: 0202.01-05).

³ U.S. data converted from pounds to m.t. using a 454g/lb conversion factor.

* Data for 1964-1966 includes chicken parts and whole chickens. Both the E.C. and United States did not disaggregate poultry data prior to 1967.

² E.C. Subsidy in effect.

TABLE 7.—U.S.—E.C. EXPORTS OF WHOLE CHICKENS TO NON-E.C. EUROPE¹ (1964-1980)

Revised 9/29/81		
[In metric tons]		
	U.S. exports ² (percent)	E.C. exports ³ (percent)
1964	7,568 (33.6)	14,942 (66.4)
1965	5,632 (30.6)	12,756 (69.4)
1966	3,847 (19.6)	15,684 (80.4)
1967	906 (8.3)	13,445 (91.7)
1968	3,343 (21.9)	11,922 (78.2)
1969	5,526 (33.2)	11,109 (66.8)
1970	6,296 (13.7)	3,958 (6.3)
1971	4,016 (10.0)	26,172 (86.0)
1972	5,075 (30.2)	11,707 (69.8)
1973	1,929 (4.0)	45,816 (96.0)
1974	133 (0.8)	22,597 (99.2)
1975	48 (0.7)	7,022 (99.3)
1976	146 (0.6)	24,950 (99.4)
1977	6,404 (8.5)	86,826 (91.5)
1978	59 (0.4)	14,507 (99.6)
1979	132 (0.2)	86,705 (99.8)
1980	5,139 (6.2)	77,664 (93.8)

¹ Includes communist East Europe.

¹U.S. Bureau of the Census, Dept. of Commerce, Schedule B, U.S. Exports of Domestic Merchandise, (Schedule B 011.4005 + 011.4015).

²Eurostat-Nimex (1967-1974: 0202.11; 1975-: 0202.01-05).

³U.S. data converted from pounds to m.t. using a 454g/lb conversion factor.

⁴Data for 1964-1966 includes chicken parts and whole chickens. Both the E.C. and United States did not disaggregate poultry data prior to 1967.

⁵E.C. subsidy in effect.

TABLE 8.—U.S.-E.C. EXPORTS OF WHOLE CHICKENS TO THE CARIBBEAN (1967-1980) ¹

Revised 9/29/81

[In metric tons]

	U.S. exports ² (percent)	E.C. exports ² (percent)
1967	* 3,281 (61.6)	2,043 * (38.4)
1968	3,222 (56.8)	2,446 * (43.2)
1969	3,118 (49.4)	3,193 * (50.6)
1970	3,086 (54.6)	2,569 * (45.4)
1971	2,197 (37.9)	3,594 * (62.1)
1972	3,063 (42.7)	4,100 * (57.3)
1973	3,174 (45.5)	3,804 * (54.5)
1974	3,073 (42.1)	4,229 * (57.9)
1975	4,231 (46.9)	4,790 (53.1)
1976	5,046 (46.7)	5,763 (53.3)
1977	5,806 (48.8)	6,100 (51.2)
1978	8,899 (55.7)	7,074 (44.3)
1979	19,228 (73.3)	7,013 (26.7)
1980	21,422 (72.4)	8,162 * (27.5)

¹Includes all of Central America, except Cuba. Does not include South America.

²U.S. Bureau of the Census, Dept. of Commerce, Schedule B, U.S. Exports of Domestic Merchandise (Schedule B 011.4005 + 011.4015).

³Eurostat-Nimex (1967-1974: 0202.11; 1975-: 0202.01-05).

⁴U.S. data converted from pounds to m.t. using a 454g/lb conversion factor.

⁵E.C. subsidy in effect.

TABLE 9.—U.S.-E.C. EXPORTS OF WHOLE CHICKENS TO THE FAR EAST ¹ (1967-1980)

Revised 9/29/81

[In metric tons]

	U.S. exports ² (percent)	E.C. exports ² (percent)
1967	* 4,356 (97.7)	100 * (2.3)
1968	585 (64.2)	325 * (35.8)
1969	256 (40.0)	384 * (60.0)
1970	725 (46.2)	842 * (53.8)
1971	1,055 (46.5)	1,213 * (53.5)
1972	759 (85.5)	129 * (14.5)
1973	881 (70.6)	367 * (29.4)
1974	616 (0.7)	8,221 * (99.3)
1975	1,662 (23.5)	5,397 (76.5)
1976	4,000 (60.9)	2,568 (39.1)
1977	9,100 (86.1)	1,464 (13.9)
1978	8,645 (89.2)	1,043 (10.8)
1979	10,375 (92.2)	887 (7.8)
1980	6,368 (84.1)	1,201 * (15.9)

¹Includes Hong Kong, Japan, China, Malaysia, Singapore, Korea.

²U.S. Bureau of the Census, Dept. of Commerce, Schedule B, U.S. Exports of Domestic Merchandise, (Schedule B 011.4005 + 011.4015).

³Eurostat-Nimex (1967-1974: 0202.11; 1975-: 0202.01-05).

⁴U.S. data converted from pounds to m.t. using a 454g/lb conversion factor.

⁵E.C. Subsidy in effect.

TABLE 10.—U.S.-E.C. EXPORTS OF CHICKEN PARTS TO THE NON-E.C. WORLD (1970-1980)

Revised 9/29/81

[In metric tons]

	U.S. exports ¹ (percent)	E.C. exports ² (percent)
1970	* 30,331 (91.3)	2,886 * (8.7)
1971	34,140 (88.0)	4,670 * (12.0)
1972	32,945 (85.2)	5,722 * (14.8)
1973	34,331 (86.4)	5,408 * (13.6)
1974	42,965 (70.4)	18,078 * (29.6)
1975	52,802 (60.8)	12,566 (19.2)
1976	80,460 (86.3)	12,744 (13.7)
1977	89,762 (88.4)	11,823 (11.6)
1978	102,453 (89.6)	11,933 (10.4)
1979	110,826 (89.2)	13,293 * (10.8)
1980	139,063 (90.3)	14,932 * (9.7)

¹U.S. Bureau of the Census, Dept. of Commerce, Schedule B, U.S. Exports of Domestic Merchandise, (Schedule B 011.4025).

²Eurostat-Nimex (1970-1974: 0202.60 + 0202: 1975-: 0202.50, 61, 68, 69, 75, 85, 89).

³U.S. data converted from pounds to m.t. using a 454g/lb conversion factor.

⁴E.C. Subsidy in effect.

TABLE 11.—U.S.-E.C. EXPORTS OF TURKEYS AND TURKEY PARTS TO THE NON-E.C. WORLD (1970-1980) ¹

Revised 9/29/81

[In metric tons]

	U.S. exports ² (percent)	E.C. exports ² (percent)
1970	* 2,357 (76.9)	629 * (21.1)
1971	1,708 (79.8)	433 * (20.2)
1972	3,991 (91.6)	364 * (8.4)
1973	3,986 (92.4)	330 * (7.6)
1974	6,626 (79.3)	1,731 * (20.7)
1975	6,419 (86.7)	987 (13.3)
1976	14,611 (92.9)	1,124 (7.1)
1977	12,396 (90.4)	1,328 (9.6)
1978	11,596 (92.5)	941 (7.5)
1979	10,127 (90.3)	1,069 (9.7)
1980	23,410 (92.7)	1,850 * (7.3)

¹1970-1973: Whole Turkeys Only; 1974-: Whole Turkeys & Turkey Parts.

²U.S. Bureau of the Census, Dept. of Commerce, Schedule B, U.S. Exports of Domestic Merchandise, (1970-1973: 011.4033; 1974-: 011.4033 + 011.4038).

³Eurostat-Nimex (1970-1973: 0202.17; 1974-: 0202.17, 64, 73, 83, 85).

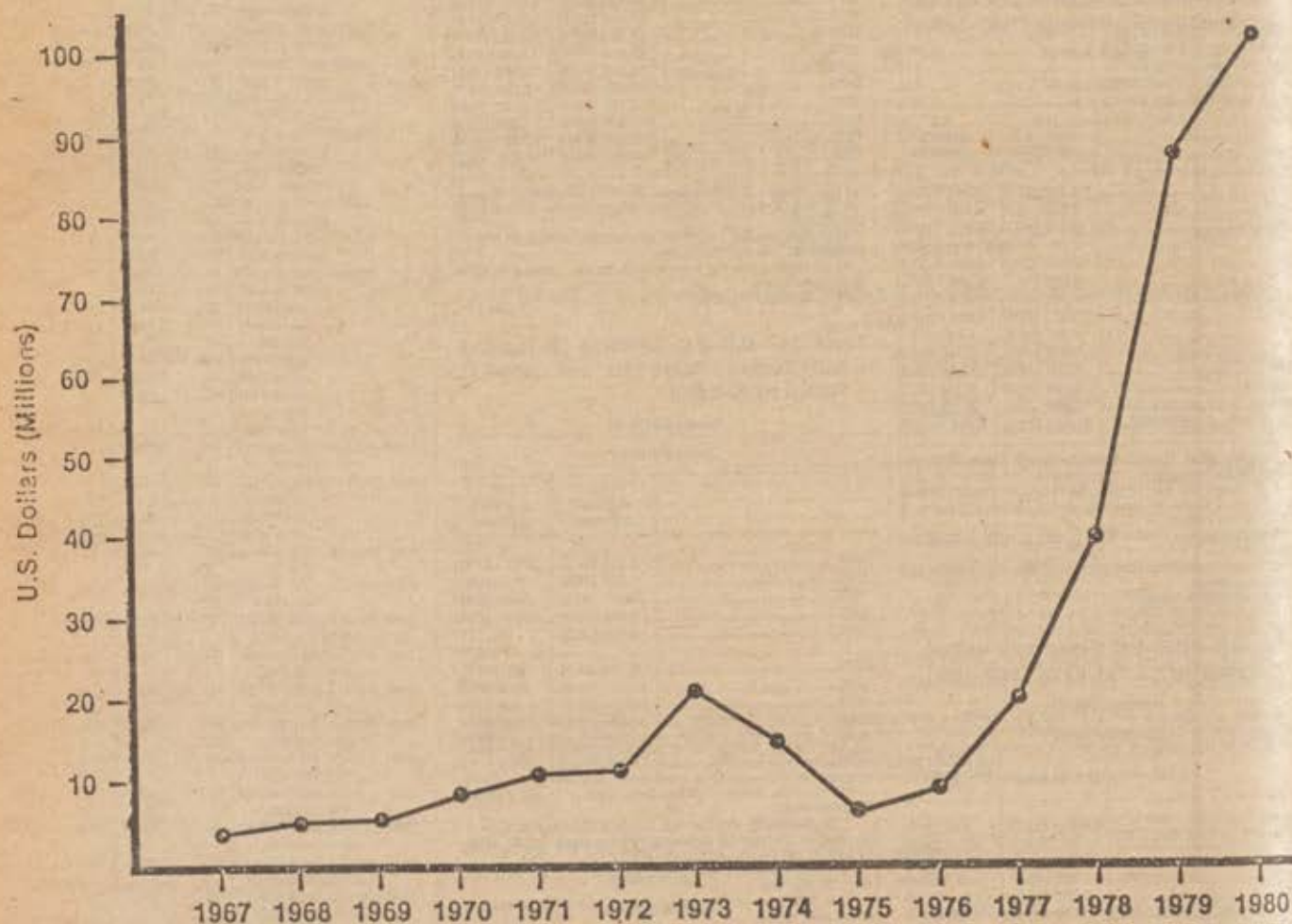
⁴U.S. data converted from pounds to m.t. using a 454g/lb conversion factor.

⁵E.C. Subsidy in effect.

BILLING CODE 3190-01-M

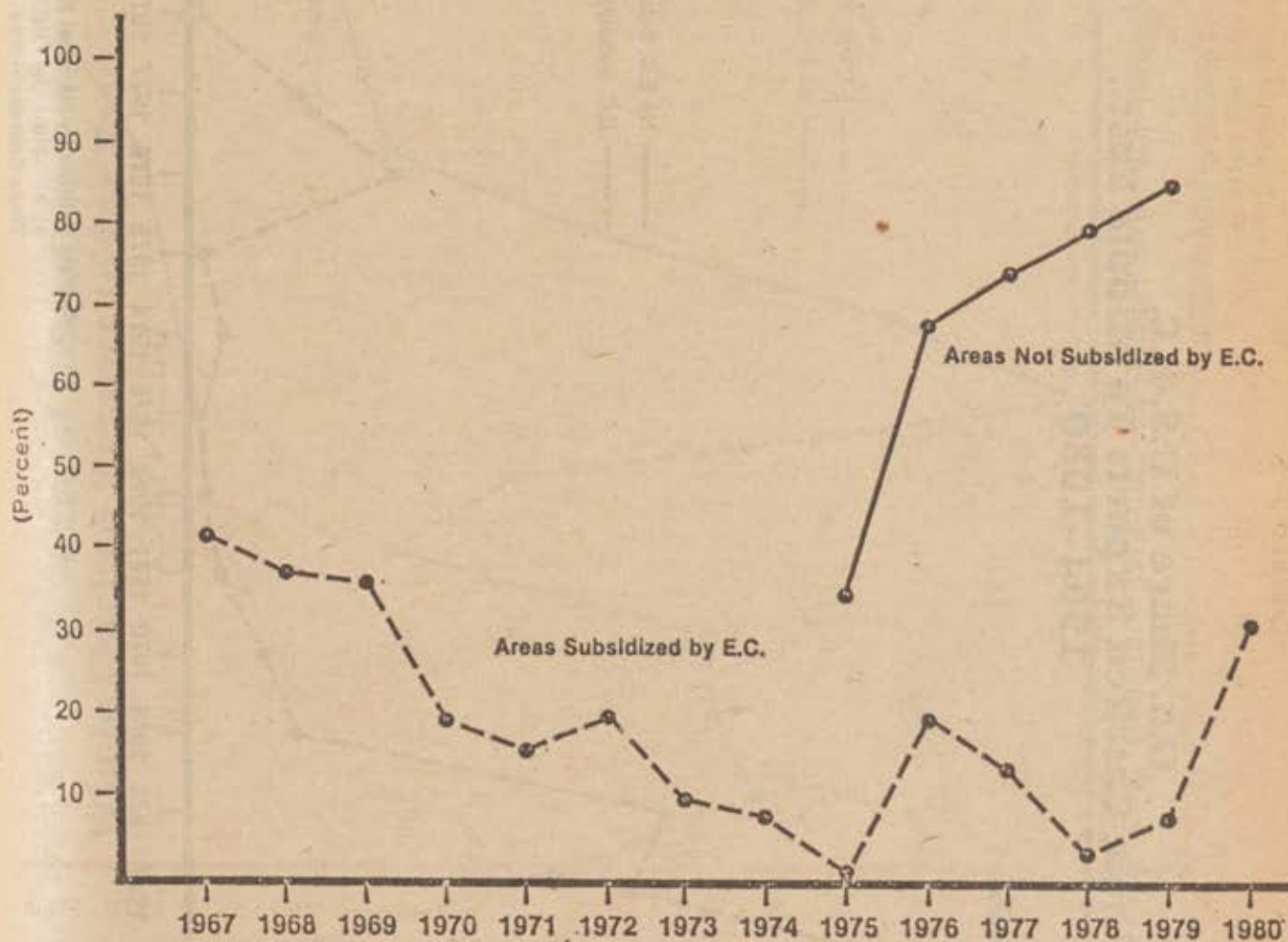
Exhibit 1

E.C. Expenditures On Direct Export Subsidies For Poultry Meat 1967-1980



Source: Petition by National Broiler Council
et. al. before the Office of the U.S.
Trade Representative

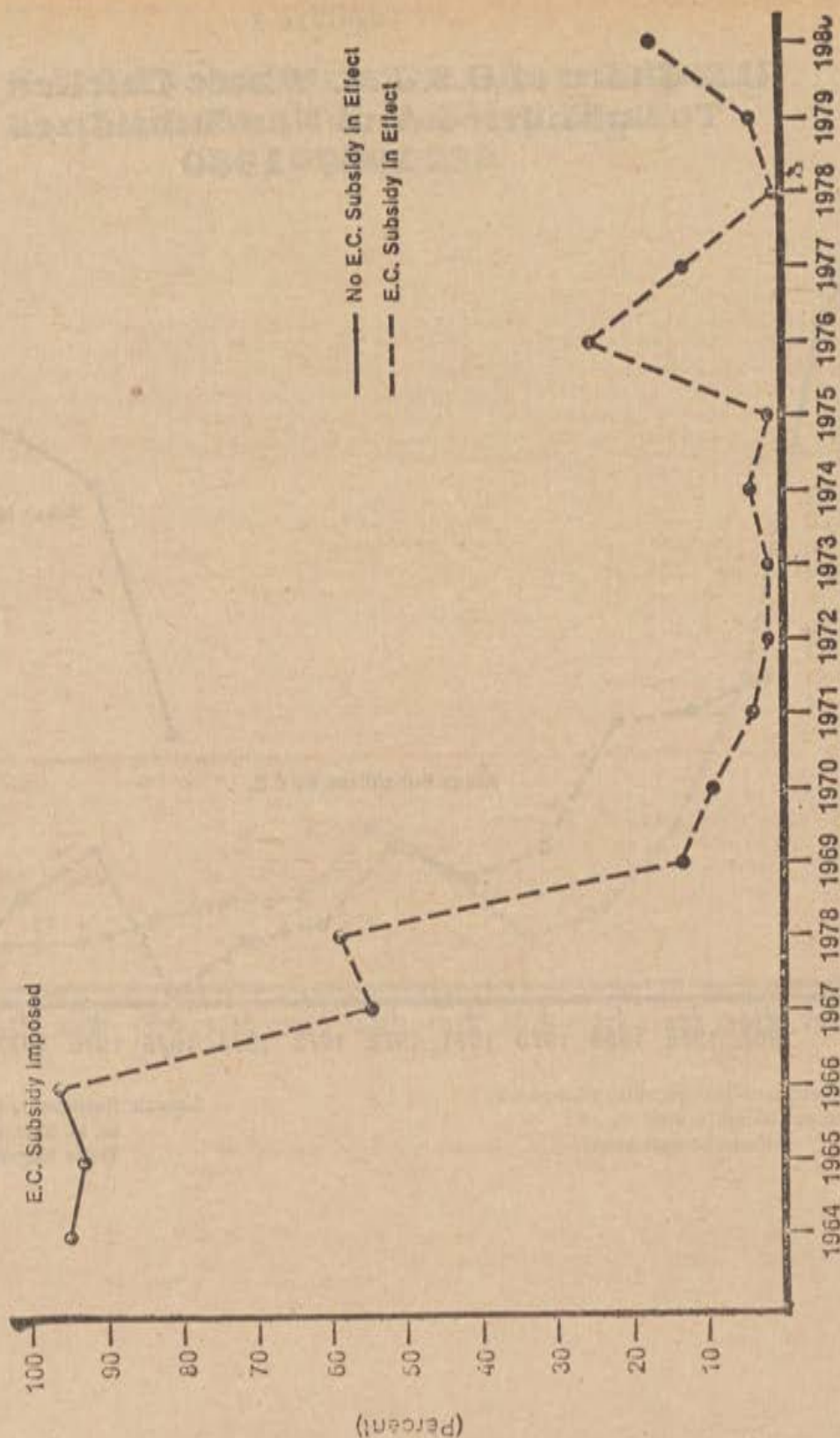
Exhibit 2

**U.S. Share of U.S.-E.C. Whole Chicken Exports
To Subsidized And Non-Subsidized Areas
1967-1980**

Source: Petition by National Broiler Council
et. al. before the Office of the U.S.
Trade Representative

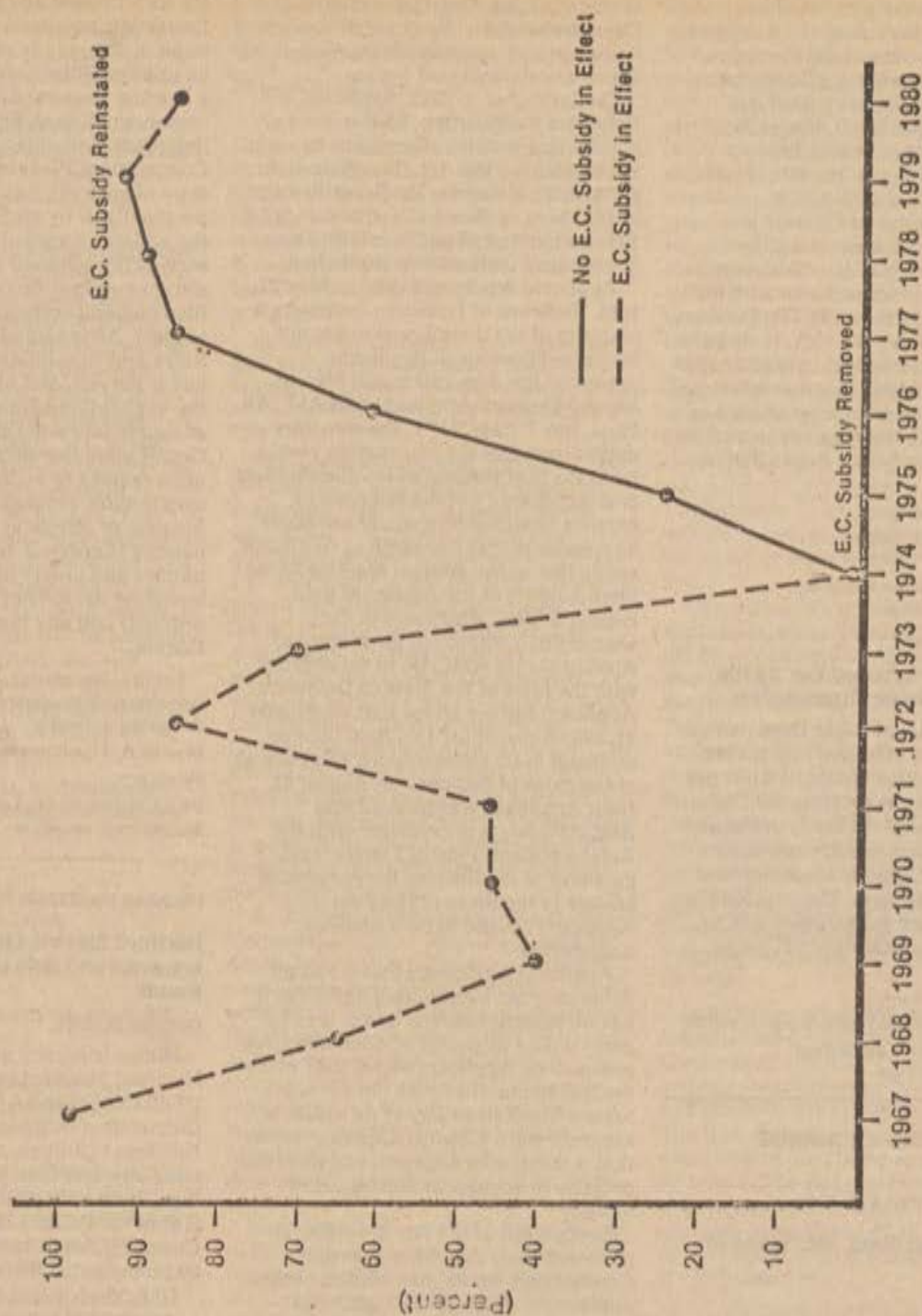
Exhibit 3

U.S. Share of U.S.-E.C. Whole Chicken Exports To Middle East 1964-1980



Source: Petition by National Broiler Council
et al. before the Office of the U.S.
Trade Representative

Exhibit 4
**U.S. Share of U.S.-E.C.
 Whole Chicken Exports to Far East
 1967-1980**



Source: Petition by National Broiler Council
 et. al. before the Office of the U.S.
 Trade Representative

In addition to the petition, the petitioner has also submitted a copy of pertinent regulations of the European Economic Community applicable to export refunds on poultry products, which is available for review in the Office of the United States Trade Representative, Room 222, 600 17th St., N.W., Washington, D.C. 20506.

Interested parties are invited to submit their views concerning the allegations in the petition. Submissions should be filed in accordance with the procedures set forth in 15 CFR 2006.8 on or before November 30, 1981. In order to assure parties the opportunity to contest information provided by other interested parties, a rebuttal brief may be filed in accordance with the requirements of 15 CFR 2006.8 on or before December 14, 1981.

Jeanne S. Archibald,
Chairman, 301 Committee.
October 28, 1981.

[FR Doc. 81-31740 Filed 11-3-81; 8:45 am]

BILLING CODE 3190-01-M

Change in Contribution Fee by the International Sugar Organization

The International Sugar Organization announced that, effective July 1, 1981, the contribution fee would be \$1.65 per metric ton on sugar entering the United States. Payment of the fee is evidenced by certain stamps and documentation required to accompany sugar imports into the United States. The contribution fee is established in accordance with Article 51 of the International Sugar Agreement.

David R. MacDonald,
Deputy United States Trade Representative.

[FR Doc. 81-31916 Filed 11-3-81; 8:45 am]

BILLING CODE 3190-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 12017; 811-636]

Anchor Growth Fund, Inc.; Filing of Application

October 29, 1981.

Notice is hereby given that Anchor Growth Fund, Inc. ("Applicant"), 333 South Hope Street, Los Angeles, CA 90071, registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified, management investment company, filed an application on September 23, 1981, pursuant to Section 8(f) of the Act for an order of the Commission declaring that Applicant has ceased to be an investment company as defined in the Act. All interested persons are referred

to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

On December 1, 1952, Applicant, a Delaware Corporation, filed a registration statement pursuant to Section 8(b) of the Act. Its registration statement filed under the Securities Act of 1933 was declared effective on May 4, 1954 and an initial public offering was commenced immediately thereafter.

Applicant represents that on May 21, 1981, its Board of Directors, including a majority of the directors who are not interested persons of Applicant, approved the Agreement and Plan of Merger between Applicant and AMCAP Fund, Inc. ("AMCAP"). The directors determined that the transaction would be in the best interest of its shareholders and that dilution of the interests of existing shareholders would not occur as a result of this transaction. Applicant states that at the Annual Meeting of the Shareholders of the Applicant held August 5, 1981, a majority of the shareholders approved the merger of Applicant into AMCAP, in accordance with the laws of the State of Delaware. Applicant further states that on August 21, 1981 it distributed its final income dividend to its shareholders. Effective as of the close of business on August 31, 1981, Applicant was merged into AMCAP and, in accordance with the Agreement and Plan of Merger, and pursuant to the filing of the Articles of Merger in the State of Delaware, Applicant ceased to be a separate corporation.

Applicant represents that it has no debts or other outstanding liabilities it has no securityholders, and it is not a party to any litigation or administrative proceeding. Applicant states that within the last 18 months it has not for any reason transferred any of its assets to a separate trust. Finally, Applicant states that it is not now engaged, and does not propose to engage, in any business activity.

Section 8(f) of the Act provides, in pertinent part, that whenever the Commission, on its own motion or upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and upon the effectiveness of such order, the registration of such company under the Act shall cease to be in effect.

Notice is further given that any interested person may, not later than November 23, 1981, 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 or her interest, the reasons

for such request and the issues, if any, of fact or law proposed to be controverted, or he or she may request that he or she 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, and order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 81-31900 Filed 11-3-81; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 22249; 70-6659]

Hartford Electric Light Co.; Proposed Issuance and Sale of First Mortgage Bonds

October 29, 1981.

Notice is hereby given that the Hartford Electric Light Company ("HELCO"), Selden Street, Berlin, Connecticut 06037, a subsidiary of Northeast Utilities, a registered holding company, has filed an application with this Commission pursuant to Section 6(b) of the Public Utility Holding Company Act of 1935 ("Act") and Rule 50 promulgated thereunder.

HELCO proposes to issue and sell up to \$30,000,000 principal amount of its first mortgage bonds having a maturity of not less than five nor more than 30 years. The terms will be determined by competitive bidding. The bonds will be issued under HELCO's First Mortgage Indenture and Deed of Trust dated as of January 1, 1958, as supplemented and amended and as to be further supplemented. The net proceeds from the issuance and sale of the bonds will be used to repay in part short-term borrowings (consisting of bank loans

and commercial paper) which aggregated approximately \$99,200,000 on October 13, 1981. The application states that if market conditions at the time of the offering of the bonds are unfavorable, HELCO may seek an exception from the competitive bidding requirement so that it may offer the bonds through a negotiated public offering.

The application and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by November 30, 1981, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicant at the address specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application, as filed or as it may be amended, may be granted.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 81-31803 Filed 11-3-81; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 34-18214; File No. SR-NSCC-81-15]

National Securities Clearing Corp.; Proposed Rule Change By Self- Regulatory Organization

In the matter of proposed rule change relating to NSCC Statement of Policy regarding non-security delivery related charges. Comments requested on or before November 25, 1981.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on September 28, 1981, the National Securities Clearing Corporation filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the National Securities Clearing Corporation. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Statement of policy

As authorized by NSCC Rule 9, the Corporation provides an Envelope Settlement Service for the delivery and receipt of securities in New York City and for the delivery and receipt of securities between the Corporation's branch facilities and its New York City facility. Paragraph 2 of Section 1 provides that:

An envelope delivered to the Corporation shall contain only securities; tickets relating to securities contained in the envelope; or such other items as the Corporation may from time to time permit.

Paragraph 3 of Section 1 provides that the credit list attached to an envelope shall show "the total money value, if any, of the items contained in that envelope". Since Paragraph 2 of Section 1 of Rule 9 authorizes the Corporation to permit Members to include "other items" in envelopes, credit lists may also include charges other than for securities contained in the envelope. Pursuant to Paragraph 7 of Section 1, the Corporation credits the delivering Settling Member's account with the amount shown on the credit list and debits the receiving Settling Member's account. Under Paragraph 10 of Section 1, amounts so debited and credited are included in the settlement for that day pursuant to Rule 12.

As Settling Members are aware, the Corporation stands behind amounts so debited or credited which are included pursuant to Rule 12 in the daily settlement. This, however, is subject to the Corporation's rights under Section 2 of Rule 12, pursuant to which the Corporation may take specific actions with respect to securities or money which are or may be due a Settling Member for whom the Corporation determines, or may determine, to cease to act.

In reviewing the protections available to the Corporation and its assumption of responsibility for envelope deliveries, the Corporation has determined that it will not generally prohibit Settling Members from continuing to utilize the envelope system as a debiting and crediting vehicle for charges arising other than for securities delivered in the envelopes to which the credit list, which includes the charge, is attached. However, the Corporation will not stand behind charges appearing on a credit list attached to envelopes which are not for securities contained in such envelope. In the absence of a showing, satisfactory to the Corporation, that the charges

appearing on the credit list are for securities actually contained in such envelopes to which such credit lists are attached, the Corporation, in its discretion, may promptly reverse credits previously given to delivering Settling Members. For the purpose of this Rule, it shall be presumed that charges appearing on a credit list attached to an envelope shall not be for the securities contained in such envelope if the charges are not approximately equal to either the current market price or contract price of the securities so included.

Notwithstanding the foregoing, the Corporation may, in its discretion, apportion on a pro rata basis, to delivering Settling Members whose credit positions have been reversed, any excess credit position remaining, after all liabilities to the Corporation are satisfied, of a receiving Settling Member for whom the Corporation has ceased to act.

This statement of policy shall be applicable not only to charges through the Envelope Settlement Service but also through the Intercity Envelope Service provided by Section 2 of Rule 9. This statement of policy is not inconsistent with the Corporation's policy on Settling Member-to-Settling Member adjustments which, while permitted by the Corporation generally, are subject to reversal in the Corporation's discretion.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the National Securities Clearing Corporation ("NSCC") included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Pursuant to the provisions of NSCC Rule 7, the Corporation may permit Settling Members to submit non-security delivery related charges through the Envelope System. NSCC has determined that while Settling Members should generally continue to be permitted to submit such charges, in order to protect Settling Members from being assessed

for such miscellaneous charges in the event that a receiving Settling Member fails to pay for such charges, NSCC will not guarantee these charges. Credits for such charges previously given to Settling Members are therefore subject to reversal. The purpose of the proposed rule change is to clarify the Corporation's guarantee of charges related to security deliveries through the NSCC system. The proposed rule change is consistent with the requirements of the Securities Exchange Act of 1934 and the rules and regulations thereunder applicable to NSCC in that, while continuing to facilitate the settlement of miscellaneous charges between Settling Members, it enables NSCC to protect itself and its Settling Members from losses resulting from miscellaneous charges unrelated to securities deliveries through the NSCC system.

(B) Self-Regulatory Organization's Statement on Burden on Competition

NSCC does not believe that the proposed rule change will have an impact or impose a burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Comments on the proposed rule change have been solicited from members pursuant to an Important Notice. Any comments received will be forwarded to the Commission.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934 and subparagraph (e) of the Securities Exchange Act Rule 19b-4. At any time within 60 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.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to

the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted on or before November 25, 1981.

Dated: October 27, 1981.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 81-31958 Filed 11-3-81; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 18220; SR-PSE-81-15]

Pacific Stock Exchange Inc.; Order Approving Proposed Rule Change

October 29, 1981.

On September 10, 1981, the Pacific Stock Exchange Incorporated ("PSE"), 618 South Spring Street, Los Angeles, CA 90014, filed with the Commission, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1) (the "Act") and Rule 19b-4 thereunder, copies of a proposed rule change which would allow the PSE to realize profits resulting from correcting errors or omissions made by an Order Book Official in order to offset any losses resulting from such errors or omissions.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 18098, September 16, 1981) and by publication in the *Federal Register* (46 FR 47037, September 23, 1981). No written statements with respect to the proposed rule change were filed with the Commission.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges, and in particular, the requirements of Section 6 and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the

above-mentioned proposed rule change be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 81-31959 Filed 11-3-81; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12015; 812-4931]

Trustfunds Liquid Asset Trust; Filing of Application For Exemption Order

October 29, 1981.

Notice is hereby given that Trustfunds Liquid Asset Trust ("Applicant"), 28 State Street, Boston, MA 02109, a Massachusetts business trust registered under the Investment Company Act of 1940 ("Act") as a no-load, open-end, diversified management investment company, filed an application on July 29, 1981, and an amendment thereto on October 15, 1981, requesting an order of the Commission pursuant to Section 6(c) of the Act, exempting Applicant from the provisions of Section 2(a)(41) of the Act and Rules 2a-4 and 22c-1 thereunder to the extent necessary to permit Applicant to use the amortized cost method of valuing the securities in each of Applicant's portfolios. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant is a "money market" fund that may issue several series of units of beneficial interest ("Portfolios"). It is asserted that Applicant presently plans to offer four Portfolios: The Treasury Portfolio, the Agency Portfolio, the Commercial Portfolio and the Prime Obligation Portfolio.

The application states that the Treasury Portfolio will be invested exclusively in obligations issued or guaranteed as to principal and interest by the United States Government, and repurchase agreements involving such obligations. Applicant represents that the Agency Portfolio will be invested exclusively in obligations issued or guaranteed as to principal and interest by agencies or instrumentalities of the United States Government and repurchase agreements involving such obligations or United States Treasury obligations. It is stated that the Commercial Portfolio will be invested exclusively in (i) commercial paper rated A-1 by Standard & Poor's Corporation or Prime-1 by Moody's Investors Service, Inc. at the time of

investment; (ii) obligations (including certificates of deposit and bankers' acceptances) of U.S. commercial banks or savings and loan institutions having total assets of \$500,000,000 or more as shown on their last published financial statements; (iii) short-term corporate obligations rates AAA or AA by Standard & Poor's or Aaa or Aa by Moody's at the time of investment, and (iv) repurchase agreements involving such obligations or United States Treasury obligations. The application states that the Prime Obligation Portfolio will be invested exclusively in the investments permitted for the Treasury, Agency, and Commercial Portfolios as described above, and repurchase agreements involving any such obligations.

The application states that the obligations that Applicant may purchase include both fixed rate and variable rate securities. It is asserted that variable rate obligations have a yield which is adjusted periodically based upon changes in the level of prevailing interest rates. Applicant states that, as a result, the value of variable rate obligations is less affected by changes in interest rates. Applicant represents that, with respect to variable rate certificates of deposit maturing in 180 days or less from the time of purchase with interest rates adjusted on a monthly cycle, Applicant may use the period remaining until the next rate adjustment date for purposes of determining the average weighted maturity of its Portfolio. Applicant states that until such time as the Commission has determined otherwise in an order amending any order issued on this application, upon persuasive evidence submitted by Applicant, Applicant will use the remaining period to maturity of all other variable rate instruments for purposes of determining the average weighted portfolio maturity of the Portfolio.

Applicant states that its investment objective is to preserve principal value and maintain a high degree of liquidity while providing as high a current income as is consistent with the standards prescribed for each of the Portfolios. The application also states that Wellington Management Company/Thorndike, Doran, Paine & Lewis will provide investment advisory services to Applicant with respect to each of the Portfolios.

As here pertinent, Section 2(a)(41) of the Act defines value to mean: (1) with respect to securities for which market quotations are readily available, the market value of such securities, and (2) with respect to other securities and

assets, fair value as determined in good faith by the board of directors. Rule 22c-1 adopted under the Act provides, in part, that no registered investment company or principal underwriter therefor issuing any redeemable security shall sell, redeem or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or to sell such security. Rule 2a-4 adopted under the Act provides, as here relevant, that the "current net asset value" of a redeemable security issued by a registered investment company used in computing its price for the purposes of distribution and redemption shall be an amount which reflects calculations made substantially in accordance with the provisions of that rule, with estimates used where necessary or appropriate. Rule 2a-4 further states that portfolio securities with respect to which market conditions are readily available shall be valued at current market value, and that other securities and assets shall be valued at fair value as determined in good faith by the board of directors of the registered company. Prior to the filing of the application, the Commission expressed its view that, among other things: (1) Rule 2a-4 under the Act requires that portfolio instruments of "money market" funds be valued with reference to market factors, and (2) it would be inconsistent, generally, with the provisions of Rule 2a-4 for a "money market" fund to value its portfolio instruments on an amortized cost basis (Investment Company Act Release No. 9786, May 31, 1977). In view of the foregoing, Applicant requests an exemption from Section 2(a)(41) of the Act and Rules 2a-4 and 22c-1 thereunder to the extent necessary to permit Applicant to use the amortized cost method of valuing the securities in each of its Portfolios.

In support of the relief requested, Applicant states that its Trustees believe that it would be in the best interest of Applicant's potential shareholders to use the amortized cost valuation method to maintain Applicant's \$1.00 share value for each Portfolio. It is asserted that amortized cost valuation would permit daily dividends to shareholders of each Portfolio which would not vary on account of unrealized capital gains and losses. Applicant also asserts that adherence to the conditions set forth below will substantially reduce the likelihood of any dilution of the assets of incoming or outgoing shareholders. Finally, Applicant states that, prior to

the commencement of its public offering, the Board of Trustees will have made a determination that, absent unusual circumstances, amortized cost value represents the fair value of Applicant's portfolio securities for each of its Portfolios.

Section 6(c) of the Act provides, in part, that the Commission upon application may conditionally or unconditionally exempt any person, security or transaction or any class or classes of persons, securities or transactions, from any provision or provisions of the Act or of the rules thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant has agreed that the following conditions may be imposed in any order of the Commission granting the exemption it has requested:

1. In supervising Applicant's operations and delegating special responsibilities involving portfolio management by Applicant's Manager and Adviser, Applicant's Board of Trustees undertakes—as a particular responsibility within the overall duty of care owed to its shareholders—to establish procedures reasonably designed, taking into account current market conditions and Applicant's investment objective, to stabilize Applicant's net asset value per share for each Portfolio, as computed for the purposes of distribution, redemption and repurchase, at \$1.00 per share.

2. Included within the procedures to be adopted by the Board of Trustees shall be the following:

- (a) Review by the Board of Trustees, as it deems appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of the net asset value per share for each of the Portfolios as determined by using available market quotations from Applicant's \$1.00 amortized cost price per share, and the maintenance of records of such review. Applicant states that to fulfill this condition, it intends to use actual quotations or estimates of market value reflecting current market conditions chosen by its Board of Trustees in the exercise of its discretion to be appropriate indicators of value, which may include, *inter alia*, (1) quotations or estimates of market value for individual portfolio instruments, or (2) values obtained from yield data relating to classes of money market instruments published by reputable sources.

(b) In the event such deviation from the \$1.00 amortized cost price per share of any of the Portfolios exceeds $\frac{1}{2}$ of 1%, a requirement that the Board of Trustees will promptly consider what action, if any, should be initiated.

(c) Where the Board of Trustees believes that the extent of any deviation from the Applicant's \$1.00 amortized cost price per share for any of the Portfolios may result in material dilution or other unfair results to investors or existing shareholders, it shall take such action as it deems appropriate to eliminate or to reduce to the extent reasonably practicable such dilution or unfair results, which may include: redeeming shares in kind; selling portfolio instruments prior to maturity to realize capital gains or losses, or to shorten the average maturity of the Applicant's portfolio; suspending dividends; or utilizing a net asset value per share for such portfolio as determined by using available market quotations. In addition, if Applicant incurs a significant loss or liability the Trustees have the authority to reduce pro rata the number of shares in each shareholder's account and to offset each shareholder's pro rata portion of such loss or liability from the shareholder's accrued but unpaid dividends or from future dividends.

3. Applicant will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable net asset value per share in each of the Portfolios; provided, however, that Applicant will neither (a) purchase any instrument with a remaining maturity of greater than one year, nor (b) maintain a dollar-weighted average portfolio maturity in any of the Portfolios which exceeds 120 days. In fulfilling this condition Applicant agrees that if the disposition of a portfolio instrument results in a dollar-weighted average portfolio maturity in any of the Portfolios in excess of 120 days, Applicant will invest its available cash in such Portfolio in such a manner as to reduce the dollar-weighted average portfolio maturity in such Portfolio to 120 days or less as soon as reasonably practicable.

4. Applicant will record, maintain, and preserve permanently in an easily accessible place a written copy of the procedures (and any modification thereto) described in condition 1 above, and Applicant will include in the minutes of Board of Trustees' meetings and will record, maintain and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of the

Board's considerations and actions taken in connection with the discharge of its responsibilities, as set forth above. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with Section 31(b) of the Act as though such documents were records required to be maintained pursuant to rules adopted under Section 31(a) of the Act.

5. The Applicant will limit its investments in each of the Portfolios, including repurchase agreements, to those United States dollar-denominated instruments which the Board of Trustees determines present minimal credit risks, and which are of "high quality" as determined by any major rating service or, in the case of any instrument that is not rated, of comparable quality as determined by the Board of Trustees.

6. The Applicant will include in each quarterly report, as an attachment to Form N-1Q, a statement as to whether any action pursuant to condition 2(c) above was taken during the preceding fiscal quarter and, if any such action was taken, will describe the nature and circumstances of such action.

Notice is further given that any interested person may, not later than November 23, 1981, 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. 81-31962 Filed 11-3-81; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12016; 811-3051]

United Cash Management II, Inc.; Filing of Application

October 29, 1981.

Notice is hereby given that United Cash Management II, Inc. ("Applicant"), One Crown Center, P.O. Box 1343, Kansas City, Missouri 64141, registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified, management investment company, filed an application on September 4, 1981, pursuant to Section 8(f) of the Act for an order of the Commission declaring that Applicant has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

On April 28, 1980, Applicant, a Maryland Corporation, filed a registration statement pursuant to Section 8(b) of the Act. Its registration statement under the Securities Act of 1933 became effective on April 30, 1980; the public offering commenced on May 1, 1980.

Applicant represents that pursuant to the provisions of Rule 6c-5 (T) Applicant exchanged all of its shares for an equal number of shares of United Cash Management, Inc. (UCM). Applicant further represents that UCM purchased Applicant's portfolio securities at amortized cost, effective at the close of business on October 31, 1980. Applicant states that all of its shareholders who did not elect to redeem, became shareholders of UCM.

Applicant states that the transaction had been considered by its Board of Directors at a regular meeting held on October 29, 1980. It was determined by the entire Board, and independently by those Directors who are not interested persons of Waddell and Reed, Inc. (Applicant's investment adviser), that the interests of the shareholders would not be diluted as a result of the transaction and that participation in the transaction by Applicant was in the best interest of its shareholders.

Applicant represents that it has no debts or other outstanding liabilities; it

has no assets, or securityholders, and it is not a party to any litigation or administrative proceedings. Applicant states that within the last 18 months it has not for any reason transferred any of its assets to a separate trust. Finally, Applicant states that it is not now engaged, and does not propose to engage, in any business activity. According to Applicant, it intends to file articles of dissolution as required under Maryland law.

Section 8(f) of the Act provides, in pertinent part, that whenever the Commission, on its own motion or upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and upon the effectiveness of such order, the registration of such company under the Act shall cease to be in effect.

Notice is further given that any interested person may, not later than November 23, 1981, 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 or her interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or he or she may request that he or she

be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 81-31903 Filed 11-3-81; 8:45 am]
BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

Ratification

Pursuant to the authority vested in me by the Small Business Act, 72 Stat. 384, as amended, and the Small Business Investment Act of 1958, 72 Stat. 689, as amended, I hereby ratify all actions, as described below, taken by the Assistant Administrator for Policy, Planning and Budgeting; Controller; Director, Office of Accounting Operations; Chief, Accounting Section; and Chief, Fiscal Section during the period from 4-13-79 to 10-26-81.

Actions

Assignment, endorsement, transfer, deliver, release (but in all cases without representation, recourse, or warranty) promissory notes, bonds, debentures, and other obligating instruments on all loans or investments made or serviced by SBA when paid in full or when transferred to the Department of Justice for liquidation.

Dated: October 19, 1981.

Michael Cardenas,
Administrator.

[FR Doc. 81-31903 Filed 11-3-81; 8:45 am]
BILLING CODE 8025-01-M

Sunshine Act Meetings

Federal Register

Vol. 46, No. 213

Wednesday, November 4, 1981

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

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 8:35 p.m. on Friday, October 30, 1981, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to (1) accept sealed bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in Midtown National Bank, Pueblo, Colorado, which was closed on October 30, 1981 by the Acting Comptroller of the Currency; (2) accept the bid for the transaction submitted by First Colorado Bank of Pueblo, N.A., Pueblo, Colorado, a newly-organized national bank subsidiary of Affiliated Bancshares of Colorado, Boulder, Colorado, subject to approval of the appropriate court; (3) provide such financial assistance, pursuant to section 13(e) of the Federal Deposit Insurance Act (12 U.S.C. 1823(e)), as was necessary to effect the purchase and assumption transaction; and (4) appoint a liquidator for such of the assets of the closed bank as were not purchased by First Colorado Bank of Pueblo, N.A.

In calling the meeting, the Board determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Mr. Paul M. Homan, acting in the place and stead of Director Charles E. Lord (Acting Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public

interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: November 2, 1981.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

(S-1009-81 Filed 11-2-81; 3:19 pm)

BILLING CODE 6714-01-M

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FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:30 p.m. on Monday, November 9, 1981, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors pursuant to sections 552b(c)(2), (c)(6), (c)(8), and (c)(9)(A)(ii) of Title 5, United States Code, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Requests for relief from adjustment for violations of Regulation Z:

Names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(8) and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(8) and (c)(9)(A)(ii)).

Note.—Some matters falling within this category may be placed on the discussion agenda without further public notice if it becomes likely that substantive discussion of those matters will occur at the meeting.

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil money penalties) against certain insured banks or officers, directors, employees, agents, or other

persons participating in the conduct of the affairs thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

Note.—Some matters falling within this category may be placed on the discussion agenda without further public notice if it becomes likely that substantive discussion of those matters will occur at the meeting.

Discussion Agenda:

Applications for consent to establish branches:

The Dime Savings Bank of New York, New York, New York, for consent to establish a branch at 193 Middle Neck Road, Great Neck Gardens (Unincorporated), Town of North Hempstead, New York.

Richmond County Savings Bank, New York (Staten Island), New York, for consent to establish a branch at 525-27 86th Street, New York (Brooklyn), New York.

Industrial Valley Bank and Trust Company, Jenkintown, Pennsylvania, for consent to establish a branch at 3 North Second Street, Philadelphia, Pennsylvania.

Application for consent to merge and establish branches:

Tokai Bank of California, Los Angeles, California, for consent to effect a series of merger-type transactions resulting in the merger of Tokai Bank of California, under its charter and title, with Continental Bank, Alhambra, California, and for consent to establish the four existing offices and one approved but unopened remote service facility of Continental Bank as branches of Tokai Bank of California.

Request for relief from a previously imposed condition of an order issued pursuant to section 18(c) of the Federal Deposit Insurance Act:

Metropolitan Savings Bank, New York (Brooklyn), New York, in connection with its proposed merger with Brooklyn Savings Bank, New York (Brooklyn), New York.

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2) and (c)(6)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, NW, Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389-4425.

Dated: November 2, 1981.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-1067-81 Filed 11-2-81; 11:26 am]

BILLING CODE 6714-01-M

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FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2:00 p.m. on Monday, November 9, 1981, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous meetings.

Applications for Federal deposit insurance:

City Bank & Trust of Shreveport, Louisiana, a proposed new bank, to be located at 900 Pierremont Road, Shreveport, Louisiana.

Mequon State Bank, a proposed new bank, to be located at 5909 W. Mequon Road, Mequon, Wisconsin.

Application for consent to establish a branch:

Pacific Citibank, Huntington Beach, California, for consent to establish a branch at 1125 East Seventeenth Street, Santa Ana, California.

Application for consent to merge and establish branches:

First-Citizens Bank & Trust Company, Raleigh, North Carolina, for consent to merge, under its charter and title, with Commercial & Savings Bank, Booneville, North Carolina, and Commercial & Farmers Bank, Rural Hall, North Carolina, and for consent to establish the sole office of Commercial & Savings Bank and the three offices of Commercial & Farmers Bank as branches of the resultant bank.

Applications for consent to merge, establish branches, issue subordinated capital notes as an addition to the bank's capital structure, and for advance consent to the retirement of those notes at maturity:

The Sumitomo Bank of California, San Francisco, California, for consent to merge, under its charter and title, with Pacific Citibank Huntington Beach, California; for consent to establish the four existing offices and the proposed *de novo* branch office of Pacific Citibank as branches of the resultant bank; for consent to issue subordinated capital notes as an addition to the bank's capital structure; and for advance consent to retire these capital notes at maturity.

Request for rescission of a condition imposed in granting Federal deposit insurance:

Lakeside State Bank, Oologah, Oklahoma.

Applications for consent to add subordinated capital notes to the bank's capital structure and for advance consent to the retirement thereof at maturity:

ComBank/Apopka, Apopka, Florida.

ComBank/Fairville, Fairville, Florida

ComBank/Pine Castle, Pine Castle, Florida

ComBank/Seminole County, Casselberry, Florida

ComBank/Union Park, Union Park, Florida

ComBank/Winter Park, Winter Park, Florida

Request for exemption pursuant to section 348.4(b)(2) of the Corporation's rules and regulations entitled "Management Official Interlocks":

First American Bank & Trust of Baytown, Baytown, Texas.

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 44,968-NR—Eatontown National Bank, Eatontown, New Jersey

Case No. 44,969-L—Banco de Ahorro de Puerto Rico, San Juan (Hato Rey), Puerto Rico

Case No. 44,971-NR—Eatontown National Bank, Eatontown, New Jersey

Reports of committees and officers:

Minutes of the actions approved by the Committee on Liquidations, Loans and Purchases of Assets pursuant to authority delegated by the Board of Directors.

Reports of the Director of the Division of Bank Supervision with respect to applications or requests approved by him and the various Regional Directors pursuant to authority delegated by the Board of Directors.

Discussion Agenda:

No matters scheduled.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, N.W., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389-4425.

Dated: November 2, 1981.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-1068-81 Filed 11-2-81; 11:27 am]

BILLING CODE 6714-01-M

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FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

October 28, 1981.

TIME AND DATE: 10 a.m., Wednesday, November 4, 1981.

PLACE: Room 600, 1730 K Street, N.W., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. Penn Allegh Coal Company, PENN 81-6-R. (Issues include interpretation and application of 30 CFR 75.316.)

2. Lone Star Industries, Inc., VA 80-67-M. (Issues include interpretation and application of 30 CFR 56.9-14.)

3. Beckley Coal Mining Co., WEVA 80-415, WEVA 79-465-R; Petition for Discretionary Review. (Issues include whether violation of 30 CFR 75.1704 occurred.)

4. Victor McCoy v. Crescent Coal Company, PIKE 77-71; Petition for Discretionary Review. (Issues include whether the judge erred in finding illegal discrimination.)

CONTACT PERSON FOR MORE

INFORMATION: Jean Ellen, 202-653-5632.

[S-1066-81 Filed 11-2-81; 10:19 am]

BILLING CODE 6820-12-M

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FEDERAL RESERVE SYSTEM

(Board of Governors)

TIME AND DATE: 10 a.m., Monday, November 9, 1981.

PLACE: 20th Street and Constitution Avenue, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE

INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452-3204.

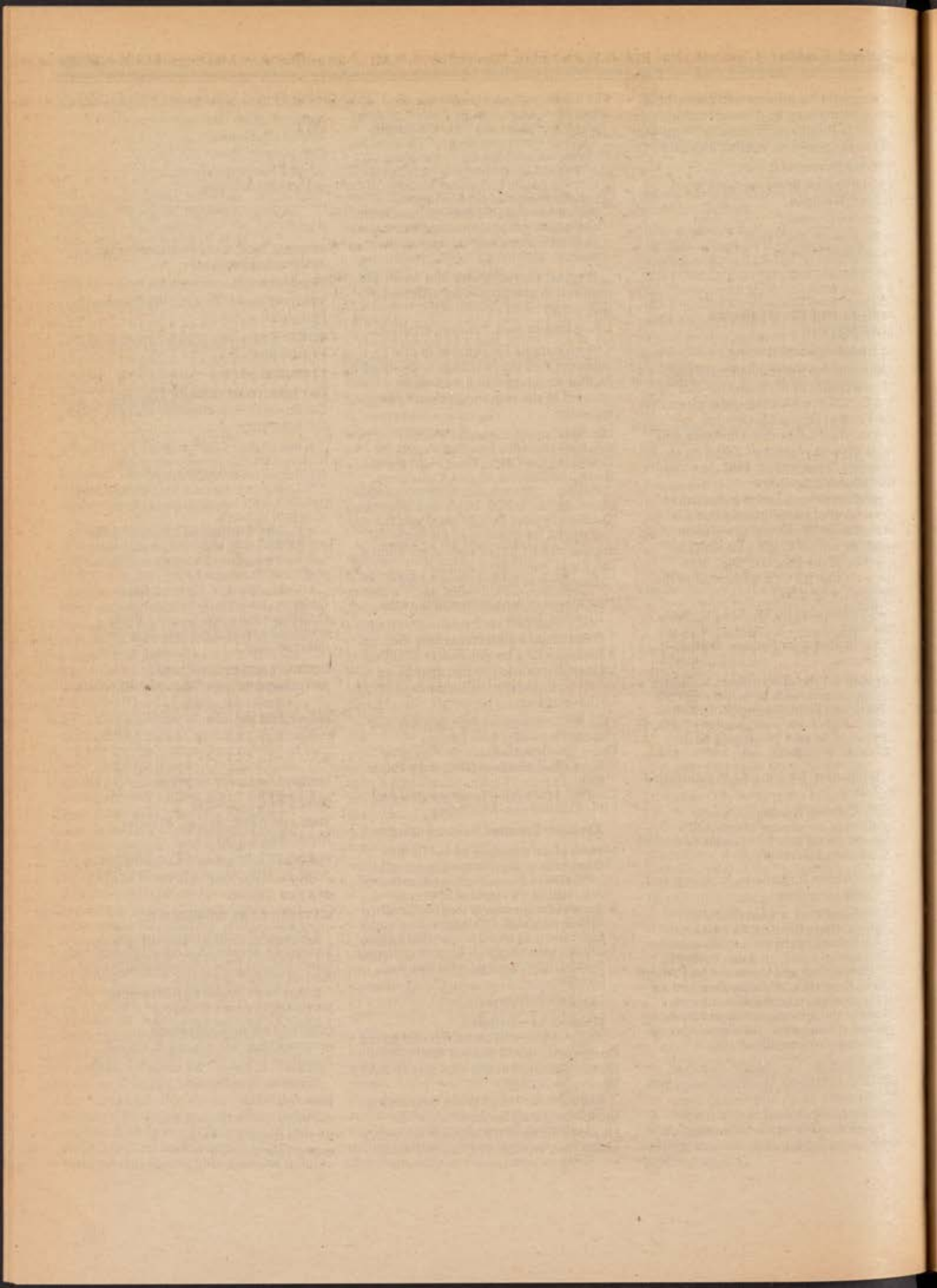
Dated: October 30, 1981.

James McAfee,

Assistant Secretary of the Board.

[S-1065-81 Filed 10-30-81; 4:35 pm]

BILLING CODE 6210-01-M



federal register

Wednesday
November 4, 1981

Part II

Federal Trade Commission

**Improving Government Regulations;
Semiannual Regulatory Agenda**

FEDERAL TRADE COMMISSION

16 CFR Ch. I

Improving Government Regulations;
Semiannual Regulatory Agenda

AGENCY: Federal Trade Commission.

ACTION: Semiannual regulatory agenda

SUMMARY: The following agenda of Commission proceedings is published to comply with the Federal Trade Commission Improvements Act of 1980, Pub. L. 96-252 and the Regulatory Flexibility Act, Pub. L. 96-354. Each item reflects the Bureau of Consumer Protection's assessment of events that it expects will occur in the listed proceedings sometime during the coming year. No Commission determination on the need for or the substance of a trade regulation rule or any other procedural option should be inferred from inclusions.

Several of the items concern proceeding that potentially may affect a substantial number of small businesses as that term is used in the Regulatory Flexibility Act. Such proceedings are indicated in this agenda by the term "Regulatory Flexibility" immediately below the title for the proceeding. Whether any such proceeding will result in a rule which is likely to have a significant economic impact on such entities depends upon final Commission determinations on the need for or on the substance of a trade regulation rule.

The views expressed in these entries are those of the FTC staff, based upon information now available. These views should not be regarded as a final staff position, nor should they be attributed to the Commission itself. The Commission will address the issues presented when it considers each staff proposal.

Each agenda item is based on projected timing of future Commission action. Discovery of new information, changes in circumstances or in the law may alter the projected dates.

FOR FURTHER INFORMATION CONTACT: Sylvia J. Miller, Assistant Director for Management and Budget, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580, (202) 523-3921.

Food Advertising

(39 FR 39842, Nov. 11, 1974; 40 FR 23086, May 28, 1975; 41 FR 8980, March 2, 1976)

The Rule

The rule would promote accuracy in food advertising claims by standardizing certain terms and requiring disclosure of material information in the following

areas: natural food claims; energy and weight control claims; and fat, fatty acid, and cholesterol claims. Foods could be advertised as natural, if such foods contain no artificial or synthetic ingredients and are not more than minimally processed. If a food has been more than minimally processed, it could nonetheless be advertised as natural, if either the processed ingredients or the processes themselves are disclosed. Additionally, natural foods would not be advertised as inherently superior simply because they are natural.

Advertisements making energy claims would have to disclose that the claims mean that the food provides calories. Weight control claims would have to disclose the number of calories in a serving of the advertised food (unless the food meets FDA standards for a "low calorie" food).

Finally, the rule would deal with two types of fatty-acid and cholesterol claims; content claims, which simply state the content (e.g., no cholesterol), and health-related claims which refer to heart or artery disease. As to content claims about cholesterol or fatty acids, the rule would require disclosure of either the amounts of the other dietary constituents thought to be related to heart and artery disease or, in broadcast media, a disclosure that the advertised food contains these other components and the label may be consulted for precise information.

As to health related claims, the rule would prohibit certain claims that are unsubstantiated or false. All remaining claims in this area may be made, so long as the advertisement discloses the existence of a scientific controversy concerning the relationship between fat and cholesterol in the diet and the risk of heart or artery disease.

The staff is presently writing a statement of basis and purpose and related documents.

Objectives

The rule is designed to ensure that consumers have accurate and reliable information on nutrition quality by preventing deception in food advertising. The "natural food" section is intended to remedy the deceptive use of the claim that a food is "natural". The energy section would prevent consumers from being misled into believing that something other than the caloric content of the food provides energy. Weight control claims would trigger a disclosure to consumers that would permit them to choose foods based on accurate information. Fatty acid and cholesterol claims would be limited to prevent deceptive claims relating to heart or artery disease. Advertisers would be

prevented from deceptively overstating the health benefits of particular foods.

Legal Authority

Federal Trade Commission Act, sections 5, 12, 15 and 18, 15 U.S.C. 45, 52, 55 and 57(a).

Timing

Final Commission Action—April 1982.

Responsible Person

Melvin H. Orlans, Division of Food and Drug Advertising, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580, (202) 724-1529

Amendment to Trade Regulation Rule Concerning Preservation of Consumers' Claims and Defenses ("Holder-in-Due-Course Rule"), 16 CFR Part 433

(40 FR 53506, November 18, 1975)

Regulatory Flexibility

The Amendment

The original rule, which took effect in May of 1976, requires sellers to ensure that credit contracts used in consumer installment sales and purchase money loans (loans made to finance a purchase from a seller with whom the lender has a working relationship directed at consumer sales) contain a provision which makes any holder of the contract subject to all legal claims and defenses related to the sale transaction which the buyer may have against the seller.

The amendment would extend to creditors who make purchase money loans or purchase retail installment contracts the obligation to ensure that credit contracts contain the required provision. The amendment also would make a number of technical revisions in the rule, including:

1. The definition of "purchase money loan" and certain associated terms would be clarified but the underlying meaning would not be changed.

2. The language of the required contract provision would be changed to make it more readable and to make explicit the idea that the provision only preserves claims and defenses related to the sale financed by the creditor contract. The legal meaning of the contract provision would not be changed.

3. Lenders would be permitted to add to the required contract provision a specified clause which frees them from liability for claims and defenses where a consumer tells them that loan proceeds will be spent at a seller with which they are affiliated, but actually spends the proceeds at a different, unaffiliated, seller.

4. The amendment would add a provision indicating that businesses violate the rule only if the violative actions are engaged in with actual or implied knowledge that they are prohibited by the rule.

5. The minimum size of type in which the required contract provision would have to be printed would be reduced, in order to lessen the amount of space the provision would take up on contract forms.

6. In credit contracts required by law to be in Spanish, a Spanish version of the required contract provision would have to be used.

The staff is presently preparing a statement of basis and purpose and related documents for submission to the Commission.

Objectives

The underlying objective of the amendment is the same as that of the original rule—to ensure that a purchaser's duty to pay is not separated from sellers' duty to perform as promised when consumer sales are financed by third party creditors or purchase money lenders.

The extension of compliance obligations to creditors is intended to encompass within the rule all parties to the practices covered by the rule. It should also enhance enforcement of the rule because in many transactions covered by the rule creditors play an important role in determining the content of contracts. The technical changes made in the rule by the amendment should make the rule easier for consumers and businesses to work with and understand.

Legal Authority

Federal Trade Commission Act Sections 5 and 18, 15 U.S.C 45 and 57(a).

Timing

Final Commission Action—March, 1982.

Responsible Person

David Williams, Division of Credit Practices, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580, (202) 724-1100

Funeral Industry Practices

(40 FR 38901, August 24, 1975)

Regulatory Flexibility

On January 22, 1981, the Commission republished for public comment a revised version of its proposed trade regulation rule to govern funeral industry practices. The rule had been substantially modified from the rule

originally proposed in 1975 and had been further revised from the version tentatively approved in substance by the Commission in 1979. The rule was republished to comply with Section 19 of the FTC Improvements Act of 1980.

Section 19 placed certain limits on the Commission's authority to regulate the funeral industry and required that any revised rule complying with these limits be published for public comment before the Commission made a final determination on whether or not to adopt the rule.

On July 17, 1981, after receiving and considering public comments and staff recommendations on the proposal, the Commission voted to approve a version of the proposed rule for purposes of transmittal to the Office of Management and Budget for review of its recordkeeping requirement. The rule so approved has the following major substantive features:

1. Price disclosures—The rule would require that consumers be provided with itemized price information (a general price list, casket price list, and outer burial container price list, or a combination of these lists) in the funeral home upon beginning discussions about particular services or merchandise. It would further require that itemized price information be available to consumers over the telephone upon request and that they be given a written statement listing charges for the services and merchandise they select at completion of their arrangements conference.

2. Misrepresentations—It would be a violation of the rule to misstate legal or cemetery requirements. Specific misrepresentations prohibited would be claims that embalming is required by law in all cases, that a casket is required by law for direct cremations, or that an outer burial container is required by law to surround the casket in the grave when such is not the case. Other representations prohibited would be claims that funeral goods or services can preserve the body for extended periods of time and claims that cash advance items (items obtained from a third party) are provided at cost when they are not. The rule would also require funeral providers to make certain written disclosures to inform consumers about their options in deciding whether or not to purchase embalming or other funeral goods and services.

3. Other Unfair or Deceptive Practices—The rule would prohibit funeral providers from conditioning the sale of goods or services upon the purchase of other goods or services, would further prohibit them from requiring caskets for direct cremations, and would require that unfinished wood

boxes or alternative containers be made available to customers desiring to arrange direct cremation.

The staff is presently writing a statement of basis and purpose and related documents.

Objectives

The proposed funeral rule is intended to stimulate competition in the funeral industry and thereby reduce possible economic injury to funeral purchasers. Injury may result from inadequate access to price and other information needed in shopping for and purchasing those items which best meet a funeral purchaser's individual needs at the best price available. The rule is also intended to reduce the extent to which funeral providers may (1) misrepresent the utility of and need for certain goods and services, (2) provide and then bill for services without asking for or receiving permission to provide them and (3) require consumers to purchase combinations of goods which may include items they do not want.

Legal Authority

Federal Trade Commission Act Sections 5 and 18, 15 U.S.C. 45 and 57(a), as limited by the Federal Trade Commission Improvements Act of 1980, Pub. L. 96-252, 94 Stat. 374, section 19.

Timing

Final Commission Action—March 1982.

Responsible Person

Robert A. M. Schick, Division of Professional Services, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580, (202) 523-3885.

Amendment to Care Labeling of Textile Wearing Apparel Rule, 16 CFR Part 423

(41 FR 3747, January 26, 1976)

Regulatory Flexibility

The Proposed Amendment

An existing rule, effective since July, 1972, requires that all consumers' wearing apparel and piece goods used to make wearing apparel contain a "Care Label" which informs consumers about proper procedures for such things as cleaning, drying, and ironing.

The amendments that were proposed would extend the rule to cover all textile products including carpets and rugs, upholstered furniture, yarns and linens. The amendments would also require a more complete statement of the care procedure, the use of standardized care terminology and the establishment of a

basis of accuracy for each care procedure prescribed in a label.

The proposed amendments were approved in substance by the Commission on December 17, 1980. On January 5, 1981, the Commission published in the *Federal Register* a notice soliciting technical comment on the language of the rule, to determine whether its provisions adequately and clearly convey the Commission's intentions. The staff is presently summarizing the comments received and preparing a statement of basis and purpose and related documents for final Commission review.

Objective

The rule and its amendment seek to inform consumers what care procedures should be used to make certain that the utility and appearance of purchased textile products will not be impaired. In addition, the information thus made available would permit an informed choice among competing products.

Legal Authority

Federal Trade Commission Act Sections 5 and 18, 15 U.S.C. 45 and 57(a).

Timing

Final Commission Action—February, 1982.

Responsible Person

Earl Johnson, Division of Energy and Product Information, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580, (202) 724-1362

Proprietary Vocational and Home Study Schools

(39 FR 39385, August 15, 1974); Final Rule published (43 FR 60796, December 28, 1978); set aside and remanded by Court of Appeals in *Katharine Gibbs (School), Inc. v. FTC*, 612 F.2d 858 (2nd Cir. 1979); Staff Recommendation published (46 FR 35668, July 10, 1981)

Regulatory Flexibility

The Rule

The rule as originally issued required Proprietary Vocational and Home Study Schools to provide pro rata refunds to students who withdraw from their courses; to provide information to prospective students concerning the schools' graduation and placement records and to provide an initial fourteen day cooling-off period in which students can cancel their enrollment contracts and receive full refunds. The Court of Appeals expressed disagreement with the breadth of the pro rata refund requirement and the manner in which the rule required disclosure of

placement and earnings information. The Court also found the rule to be procedurally deficient for not specifying the unfair or deceptive trade practices the rule seeks to prevent.

On July 10, 1981 the Commission published the staff's recommended revised draft of the rule for sixty days of discussion and comment by interested parties. The staff is presently preparing additional recommendations for the Commission.

Objectives

The rule's objectives are to create economic incentives for schools to avoid deceptive sales practices, to prevent deception by requiring schools to provide material information to prospective students, and to provide students with contractual remedies which they can use to protect themselves when necessary.

Legal Authority

Federal Trade Commission Act Sections 5 and 18, 15 U.S.C. 45 and 57(a).

Timing

Commission consideration of staff recommendations to respond to Court of Appeals order of remand—June, 1982.

Responsible Person

Walter Gross, Division of Marketing Abuses, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580, (202) 523-3860

Hearing Aids

(40 FR 26846, June 24, 1975)

Regulatory Flexibility

The Proposed Rule

The proposed regulation currently under consideration would afford hearing aid purchasers a right to cancel the transaction within 30 days of purchase subject only to reasonable service charges. In addition, the proposal would prohibit advertising claims that a hearing aid will halt or retard hearing loss or that it will restore normal hearing.

The staff is analyzing the rulemaking record for further consideration by the Commission.

Objectives

The purpose of this proposal is to prevent deceptive and unfair sales practices in the sale of hearing aids and to give consumers contractual remedies against the risk that the device will provide no significant benefit to the user.

Legal Authority

Federal Trade Commission Act, sections 5, 12, 15 and 18, 15 U.S.C. 45, 55 and 57(a).

Timing

Commission Consideration of Staff Analysis—June, 1982.

Responsible Person

Maryanne S. Kane, Division of Food and Drug Advertising, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580, (202) 724-1488

Protein Supplements

(40 FR 41144, September 5, 1975)

Regulatory Flexibility

The Proposed Rule

The proposed rule addresses the advertising and labeling of protein supplements in three ways. First, there are provisions designed to inform consumers of certain health hazards. Thus, for example, a labeling disclosure would be a required warning against use for infants. Second, the rule would prohibit certain false or deceptive claims, such as the claim that use of a protein supplement can counteract or delay the signs of aging. Third, the rule as presently proposed would require a general disclosure in the advertising and labeling of these products to the effect that most Americans receive all the protein they need from the food they eat. Public comments on the staff and presiding officer's reports are now being analyzed by the staff.

Objectives

The proposed rule was developed to limit misrepresentations in advertising and labeling and to provide information that some of these products may be inappropriate or hazardous for certain uses (e.g., for infants). The rule was also proposed to remedy misrepresentations about the need for dietary protein supplements to the typical consumer diet.

Legal Authority

Federal Trade Commission Act, sections 5, 12, and 18, 15 U.S.C. 45, 52 and 57(a).

Timing

Final Staff Recommendations to the Commission—June, 1982.

Oral Presentation before Commission, if appropriate—July, 1982.

Commission Consideration—July, 1982.

Responsible Person

Harrison Sheppard, San Francisco
Regional Office, Federal Trade
Commission, 450 Golden Gate
Avenue, San Francisco, CA 94102,
(415) 556-1270

Mobile Home Sales and Service

(40 FR 28334, May 29, 1975)

*Regulatory Flexibility**The Proposed Rule*

The staff has recommended a trade regulation rule concerning warranty practices in the mobile home industry. This recommended rule contains substantial modifications and deletions from the originally proposed rule. It would set 30 day time limits within which the warrantor must complete warranty repairs and require manufacturers or their service agents to perform pre-occupancy inspection of the home. It would also require that manufacturers who offer written warranties on mobile homes maintain recordkeeping systems and disseminate a consumer questionnaire to monitor the adequacy of factory and dealer repairs. The recommended rule also would require that manufacturers enter into written service agreements with dealers and others who perform warranty repairs which specify who is responsible for making the repairs. Under the rule, written warranties must include specific time deadlines for service; set up and transportation damage cannot be excluded from coverage; and repairs cannot be contingent on return of the home to the factory or return of a registration card.

The recommended rule seeks to set performance standards for warranty service and service systems, but the appropriate degree of flexibility for each rule provision remains to be resolved. A possible alternative to specific time deadlines for warranty repairs would allow individual manufacturers and dealers to set their own deadlines, so long as they were disclosed in their warranties. The recommended rule sets out eight issues that must be addressed in the written service agreement between the manufacturer and dealer. If specific service deadlines and related requirements are retained in any final rule that is promulgated, they may obviate the need for the written agreement to include some of the terms that essentially track obligations the recommended rule would impose on manufacturers.

Consideration will also be given to the need for a pre-occupancy inspection by the warrantor or its agent and whether responsibility for set up and

transportation damage should rest on the manufacturer.

Finally, the recommended rule requires manufacturers to monitor the effectiveness of factory and dealer warranty repairs by maintaining service records and disseminating consumer questionnaires. An alternative may be to have manufacturers select their own monitoring devices, rather than require the use of a questionnaire.

Objectives

Most mobile home manufacturers offer a one year written warranty to cover defects in the materials and workmanship of the home. This warranty obligates them to repair defects, yet the rulemaking record indicates that many do not do so in an adequate or timely manner. The purpose of the recommended rule is to create incentives for warrantors to fulfill their warranty obligations by providing services or repairs within a reasonable period of time.

Legal Authority

Federal Trade Commission Act,
sections 5 and 18, 15 U.S.C. 45 and 57(a).

Timing

Final Staff recommendations to
Commission—April, 1982.

Oral Presentation before
Commission—May, 1982.

Commission consideration—June,
1982.

Responsible Person

Eloise Gore or Allen Hile, Division of
Product Reliability, Bureau of
Consumer Protection, Washington,
D.C. 20580, (202) 523-3500

Credit Practices

(40 FR 16347, April 11, 1975)

*Regulatory Flexibility**The Proposed Rule*

The rule addresses the use in consumer credit transactions of a variety of contractual and other collection remedies. Remedies addressed by the rule include:

1. Confession of judgment—The debtor signs a form which authorizes the creditor to obtain a court judgment against him or her without notice to the debtor or an opportunity to be heard. The rule would prohibit the use of confessions of judgment.

2. Waivers of state property exemptions—The debtor waives the right, granted by state law, to keep certain minimal property if a court judgment is obtained against him or her. The rule would prohibit the use of such waivers.

3. Wage assignments—The debtor authorizes the creditor to seize a portion of his or her wages without first obtaining a court judgment. The rule would prohibit the use of wage assignments unless they are revocable.

4. Blanket security interests in household goods—These security interests give the creditor the right to take all of the debtor's household goods in the event of default. The rule would prohibit the use of security interests in household goods except to secure credit used to finance the purchase of such goods.

5. Cross-collateral security interests—These security interests allow a merchant to take all goods that a consumer has purchased from that merchant over an extended period of time, in the event of the consumer's failure to pay for a single purchase. The rule would prohibit cross-collateral security interests unless collateral is released from the security agreement as the consumer pays for it, in the order it was purchased.

6. Deficiencies—Following the repossession and sale of collateral, the creditor can sue the debtor for a deficiency, i.e., the difference between the price obtained by the creditor for the product and the amount the consumer owes. Sales of repossessed collateral may result in large deficiencies still owing to the creditor. The rule would prohibit collection of deficiencies unless the debtor is credited with the fair market retail value of the collateral.

7. Attorney's fee clauses—These clauses require the debtor to pay the creditor's attorney's fees in the event that legal action to collect a debt becomes necessary. In some instances, attorney's fees assessed under these clauses may be larger than actual court costs or the cost of actual service provided. The rule would prohibit attorney's fee clauses in consumer credit contracts.

8. Late charges are penalty fees that the creditor assesses when the debtor fails to pay an installment on time. Sometimes these charges are "pyramided", i.e., a creditor allocates payments in such a way that a single late or missed payment may result in the debtor being assessed a late fee on all subsequent installments. The rule would prohibit pyramiding of late charges.

9. Third party contacts—The record indicates that some creditors make contacts for debt collection purposes with third parties, such as relatives, neighbors, or the debtor's employer. Such contacts may tend to invade privacy and may harm a debtor's employment relationship and lead to job

loss. The rule would require creditors to agree in credit contracts not to engage in third party contacts except to locate debtors or to verify debtor assets.

10. Cosigners—Creditors sometimes have the debtor obtain one or more cosigners who agree to pay the debt if the principal debtor defaults. The evidence shows that cosigners may not understand that the obligation they undertake is substantial. The rule would require creditors to give cosigners a notice informing them of their obligation, along with copies of documents relating to the debt. Creditors would also have to notify cosigners of serious delinquency on the part of the principal debtor and to make serious efforts to collect from the principal before collecting from a cosignor. When a person is solicited to be a cosigner after an account is in default, the potential cosigner would have to be given a 3-day cooling off period to evaluate his or her obligation.

A variety of alternatives to the staff's recommended rule are under consideration. These include: substituting a "loser pays" approach to attorney's fees clauses in place of the proposed ban on such clauses; limiting the proposed prohibition against third party contacts to contacts with employers; eliminating proposed protections for cosigners which go beyond disclosure of the obligations they are undertaking; elimination of the proposed prohibition on blanket security interests in household goods; deletion of the proposed cross-collateralization provision from the rule; and modification of the deficiency balances section of the rule to permit creditors to calculate deficiencies based on either the wholesale or retail value of the collateral, as determined by an actual sale.

The Commission will consider all of these alternatives, as well as others suggested by participants in the proceeding, and will decide what form of rule, if any, it should ultimately promulgate.

Objectives

When debtors default, they become subject to a variety of legal remedies that creditors use to collect money. Many creditor remedies are appropriate collection devices. Certain others, however, may inflict substantial injury on debtors which is disproportionate to the economic value of the remedy. The proposed rule would restrict some of these remedies in cases where their use causes serious harm to debtors which is substantially greater than the resulting economic benefit to creditors from the availability of the collection remedy.

Legal Authority

Federal Trade Commission Act
Sections 5 and 18, 15 U.S.C. 45 and 57(a).

Timing

Final staff recommendations to
Commission—February, 1982.

Oral presentation before
Commission—March, 1982.

Commission Consideration—April,
1982.

Responsible Person

David Williams, Division of Credit
Practices, Bureau of Consumer
Protection, Federal Trade
Commission, Washington, D.C. 20580,
(202) 724-1100.

Antacid Advertising

(41 FR 14534-25, April 6, 1976)

The Proposal

The Commission did not propose a rule at the outset of this proceeding. Rather than making a specific proposal, the Commission focused the proceeding on whether, and in what form, warnings required by the Food and Drug Administration ("FDA") in the labeling of non-prescription antacids should also appear in the advertising for such products. The proceeding has explored and considered various alternatives, including no warnings whatsoever, a general warning (which refers generally to the existence of risk and directs consumers to the label), various specific warnings (which specifically disclose the existence of particular risks), and various combinations of general and specific warnings. A decision by the staff on the final form of a recommended rule has not yet been made.

Objectives

Any rule in this area would be designed to prevent deceptive advertising claims for over-the-counter antacid products. In particular, a rule would be aimed at preventing the deceptive implication that antacid products are safe and can be taken by anyone without any adverse effects.

Legal Authority

Federal Trade Commission Act,
sections 5, 12, 15 and 18, 15 U.S.C. 45, 52,
55 and 57(a).

Timing

Publication of Staff Report—April,
1982.

Public Comment on Presiding Officer
and Staff Reports—No less than 60 days
following publication of staff report.

Responsible Person

Joel Brewer, Division of Food and Drug
Advertising, Bureau of Consumer
Protection, Federal Trade
Commission, Washington, D.C. 20580,
(202) 724-1530

Health Spas

(40 FR 34615; August 18, 1975)

Regulatory Flexibility

The Proposed Rule

The proposed rule would require that health spa membership contracts include provisions which would grant consumers the right to cancel and receive a full refund without penalty, during a three-day cooling-off period. If the contract is with a seller whose facilities are not yet fully operational, the proposed rule would provide that the consumer's right of cancellation may be exercised within ten days after receipt of notice that the spa facilities are fully operational and available. Following the expiration of the cooling-off period, the proposed rule would require that the health spa contract afford the consumer an additional right to cancel at any time prior to the contract's expiration. In this instance, however, the seller would be allowed to retain a cancellation fee not in excess of 5% and a pro-rata portion of the contract price based on the period of time the facilities were available to, or used by, the consumer. The balance of the contract price would have to be refunded to the consumer within ten business days after cancellation of the contract.

Other provisions of the proposed rule prescribe the manner and form of giving the consumer notice of this cancellation right, prohibit the use of long-term contracts, and prohibit the receipt of more than 5% of the contract price from consumers if a spa is not fully operational and available for use.

The staff is presently completing its analysis of the rulemaking record and its report.

Objectives

The Rule's objectives are to create economic incentives for health spas to avoid unfair or deceptive sales practices and to provide consumers with contractual remedies which they can use to protect themselves when necessary.

Legal Authority

Federal Trade Commission Act,
sections 5 and 18, 15 U.S.C. 45 and 57(a).

Timing

Publication of Staff Report—July,
1982.

Public Comment on Presiding Officer and Staff Reports—No less than 60 days following publication of staff report.

Responsible Person

John Crowley, Federal Trade Commission, New York Regional Office, 26 Federal Plaza, New York, NY 10278, (212) 264-1213

Standards and Certification

(43 FR 57269 December 7, 1978)

Regulatory Flexibility

The rule that was proposed in 1978 would require standards developers to provide notice of their standards-setting proceedings to representatives of all interests that are likely to be affected and to assure all interested persons fair opportunity to participate in the proceeding. Further, it would require the establishment of challenge and appeal mechanisms to resolve complaints about deceptive or unduly restrictive standards. Certifiers covered by it would be responsible for the truthfulness of their certifications, and would be obligated to take action to stop misuse of their seals of approval by producers.

This rulemaking is affected by the Federal Trade Commission Improvements Act of 1980, Pub. L. 96-252. More specifically, the Commission's authority to issue the Standards and Certification rule with respect to "unfair or deceptive acts or practices" under § 18 of the FTC Act has been removed. The 1980 Act leaves unaffected whatever authority the FTC might have under any other provision of the Act to issue a rule with respect to "unfair methods of competition." The Commission has determined that the most efficient way to decide what Commission action, if any, is necessary in this area is to complete the analysis of the rulemaking record gathered to date.

In addition to an FTC rule addressed to unfair methods of competition, there are a variety of possible Commission actions under consideration. Industry guides or statements of enforcement policy could be issued and these could be enforced on a case-by-case basis. Also under review are other government activities which affect the area to determine whether their impact on competitive and consumer problems would reduce the need for FTC action. One such activity is implementation of OMB Circular A-119, Federal Participation in the Development and Use of Voluntary Standards.

Objectives

Activity in this area is intended to reduce the incidence and severity of injuries to competition and consumers that may result from private standards development and product certification activities. Some 20,000 product standards are set by trade associations, technical and professional societies, product testing laboratories, and other private sector groups. They are relied on by consumers, building code officials, Federal and State agencies, and others for regulatory and procurement purposes. Generally, these standards provide significant benefits, such as lowering the cost of communications between buyers and sellers; improving the transfer of technology; encouraging efficiencies in design, production, and inventory; and assuring such things as the safety, fitness, and energy efficiency of products. However, substantial injury to competition and consumers can occur if standards development or certification activities block the use of superior or lower cost technology, prevent businesses from competing in profitable industries, establish inadequate or inappropriate product safety levels, inflate product prices, or deceive consumers about the quality of products.

Legal Authority

Federal Trade Commission Act, Sections 5 and 6 (g), 15 U.S.C. 45 and 46(g); Federal Trade Commission Improvements Act, Pub. L. 96-252, 94 Stat. 374, 7.

Timing

Publish Staff Report—May 1982.
Presiding Officer's Report—60 days after Staff Report.
Post-Record Comments—60 days after Presiding Officer's Report.

Responsible Person

Robert J. Schroeder, Division of Product Reliability, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580, (202) 523-3936

Amendment to Eyeglasses Rule

(16 CFR Part 456) and Eyeglasses II

Regulatory Flexibility

The Proposal

The staff has written a report recommending proposed amendments to the Eyeglasses Rule (16 CFR Part 456) concerning release of eyeglass and contact lens prescriptions following the dispensing of the goods, and new trade regulation rule provisions which would remove state-imposed restrictions on (1) lay or corporate employment of

optometrists and opticians, (2) locations of practice, (3) branch officers and (4) use of trade names. The Commission has made no determination on the findings and recommendations of the staff; hence, no formal rulemaking has been initiated.

The Commission has issued an Advance Notice of Proposed Rulemaking (ANPR) (45 FR 79823-831, Dec. 2, 1980) requesting public comment on the staff's analysis and recommendations and on alternative courses of action which the Commission might take. The ANPR comment period closed on February 2, 1981. The Commission staff reviewed and analyzed the comments which were received and forwarded its recommendations to the Director, Bureau of Consumer Protection. Based upon the comments and staff recommendations, The Commission will decide what action is appropriate.

In addition to the staff recommendations, the Commission is considering alternative courses of action. One of the alternatives is a publication of a Commission report along with a model State law for review by the States. Such a model statute might, for example, permit optometrists and opticians to practice in commercial settings but at the same time ensure protection of quality of care by including minimum standards for eye examinations and equipment and the protection of the doctor-patient relationship.

Another alternative would be the issuance of a voluntary guide, including some or all of the provisions recommended by the Commission's staff for a rulemaking. A guide could define, for example, the kinds of private restrictions on commercial practice that the Commission believed unjustifiably inhibited competition among eye care providers or consumer access to alternative, low cost eye care goods and services. Such guides could be followed up by case enforcement.

Objectives

The objective of the Commission's investigation is to reduce public and private restraints which increase consumer prices and limit accessibility to vision care but which do not appear necessary to protect the public health and safety. The principal question the Commission is exploring is the impact of the restrictions noted above on the price, quality and availability of vision care. The investigation has sought, through the development of statistically valid market research, to determine whether higher prices result from these

restrictions and, if so, whether offsetting consumer benefits also result from these restrictions.

Legal Authority

Federal Trade Commission Act, Sections 5 and 18, 15 U.S.C. 45 and 57(a).

Timing

Commission decision on appropriate action—February, 1982.

Responsible Person

Christine Latsey, Division of Professional Services, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580, (202) 523-3426

Amendment to Labeling and Advertising of Home Insulation Rule, 16 CFR Part 460

(42 FR 59678, 1977)

The Amendment

The Commission's home insulation trade regulation rule became effective on September 29, 1980. The rule requires manufacturers of insulation products sold for residential use to test their products to determine insulating ability ("R-value"), and to disclose R-values and related information on product labels and on fact sheets to be made available to consumers by retailers. It requires disclosure of R-values and related information by insulation installers and new home sellers. It requires advertisers to have a reasonable basis for energy savings claims they make about specific insulation products, and to disclose specific additional information in advertisements or other promotional materials when they make energy savings claims about an insulation product or refer to the product's thickness, R-value or price.

The Commission has announced its intention to reopen the rulemaking proceeding to consider whether it should amend the rule's disclosure requirements insofar as they apply to television advertising. (See ANPR, 46 FR 47237 (Sept. 25, 1981).) The Commission has temporarily delayed the effective date of those disclosure requirements pending completion of these amendment proceedings.

In addition, the Commission may lift the temporary stay of the requirement to test insulation and its representative thickness. The staff is currently preparing recommendations to the Commission with respect to this issue.

Objectives

The objectives of the reopening with respect to television advertisements is

to explore less burdensome alternatives to the disclosure requirements promulgated in August, 1979. The objective of the representative thickness requirement is to ensure that the R-values disclosed are as accurate as possible.

Legal Authority

Federal Trade Commission Act, Sections 5 and 18, 15 U.S.C. 45 and 57(a).

Timing

Commission Consideration with respect to Lifting Stay on Representatives Thickness—December 1981.

Commission Consideration with respect to Television Advertising—March, 1982.

Responsible Person

Kent Howerton, Division of Energy and Product Information, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580, (202) 724-1515

Modifications to Rule Regarding Pre-Sale Availability of Written Warranty Terms, 16 CFR Part 702

Regulatory Flexibility

Modifications Being Considered

The current Pre-Sale Availability Rule requires that retailers of consumer products costing more than \$15 make warranty texts available to consumers prior to purchase by placing the warranty text in one or a combination of four specified locations: (1) on the product, (2) in a binder, (3) on the package, or (4) on a sign. Manufacturers are required to provide retailers with materials sufficient to meet their obligations.

The Rule modifications currently under consideration would lessen the requirements for retailers of consumer products. Among the options under consideration is one that would provide two options for making warranties available to consumers prior to purchase: (1) displaying the warranty text(s), and/or (2) displayed a sign indicating the availability of warranties to customers and providing the warranty text(s) upon customer request. In addition, we are considering raising the threshold for coverage by the Rule. Additionally, we have considered creating a mechanism in the Rule to adjust this threshold amount to reflect the inflation rate. Modification to manufacturers' compliance options are also under consideration, including a requirement that manufacturers affix the warranty text to all warranted consumer products or supply retailers with tags or

labels containing the warranty text for them to affix to all displayed products.

Objectives

The Magnuson-Moss Warranty Act (15 U.S.C. 2302(b)(1)(A)) requires that the Federal Trade Commission promulgate a rule to require that the terms of written warranties for consumer products be made available to consumers prior to purchase. The Rule modifications currently being considered are intended to achieve this Congressional objective more effectively by making the Rule requirements more flexible and thus lessening the costs and burdens of compliance while still ensuring consumers access to warranties prior to purchase.

Legal Authority

Magnuson-Moss Warranty—Federal Trade Commission Improvements Act, 15 U.S.C. 2302(b)(1)(A) and 2309(a).

Timing

Commission consideration of proposed rulemaking to modify the Pre-Sale Availability Rule—December, 1981.

Responsible Person

Eloise Gore, Division of Product Reliability, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580, (202) 523-3500

Used Motor Vehicles

(41 FR 1089, January 6, 1976)

Regulatory Flexibility

The Rule

The rule would require dealers to post a window form on used cars sold to consumers which discloses, in plain language, information concerning warranty coverage offered (if any), the meaning of an "As Is" sale (in which no express warranties are offered and buyers lose the additional protection of implied warranties created by state law), and other important information. The form would also inform consumers that oral promises are difficult to enforce and would provide space for the dealer to disclose certain specific mechanical condition defects known to him.

The rule would not require dealers to offer any warranties on used cars sold, but it would require dealers who choose to offer written warranties to disclose the basic scope and terms of the warranty coverage provided. Dealers would not be required to inspect vehicles under the rule, but dealers who are aware of certain specific defects in

the car at the time of sale would be required to disclose their existence.

The rule and accompanying Statement of Basis and Purpose and Regulatory Analysis were published in the Federal Register on August 14, 1981. The promulgation date for the rule is August 18, 1981. The Commission submitted the rule to Congress for review under the provisions of the FTC Improvements Act of 1980 on September 9, 1981.

Objectives

The rule is designed to define and prevent deceptive practices in the sale of used cars by dealers that may result in substantial consumer injury. These deceptive practices include oral misrepresentations by dealers about warranty coverage (e.g., misrepresentation that a warranty is offered or of the terms of a warranty, failures to disclose the meaning of warranties and warranty disclaimers prior to sale) and oral misrepresentations about the mechanical condition of used car (e.g., false claims about condition, failures to disclose known defects, claims about condition made without a reasonable basis).

Legal Authority

Federal Trade Commission Act, sections 5 and 18, 15 U.S.C. 45 and 57(a).
Magnuson-Moss Warranty Act, section 109(b), 15 U.S.C. 2309(b).

Timing

Pending in Congress.

Responsible Person

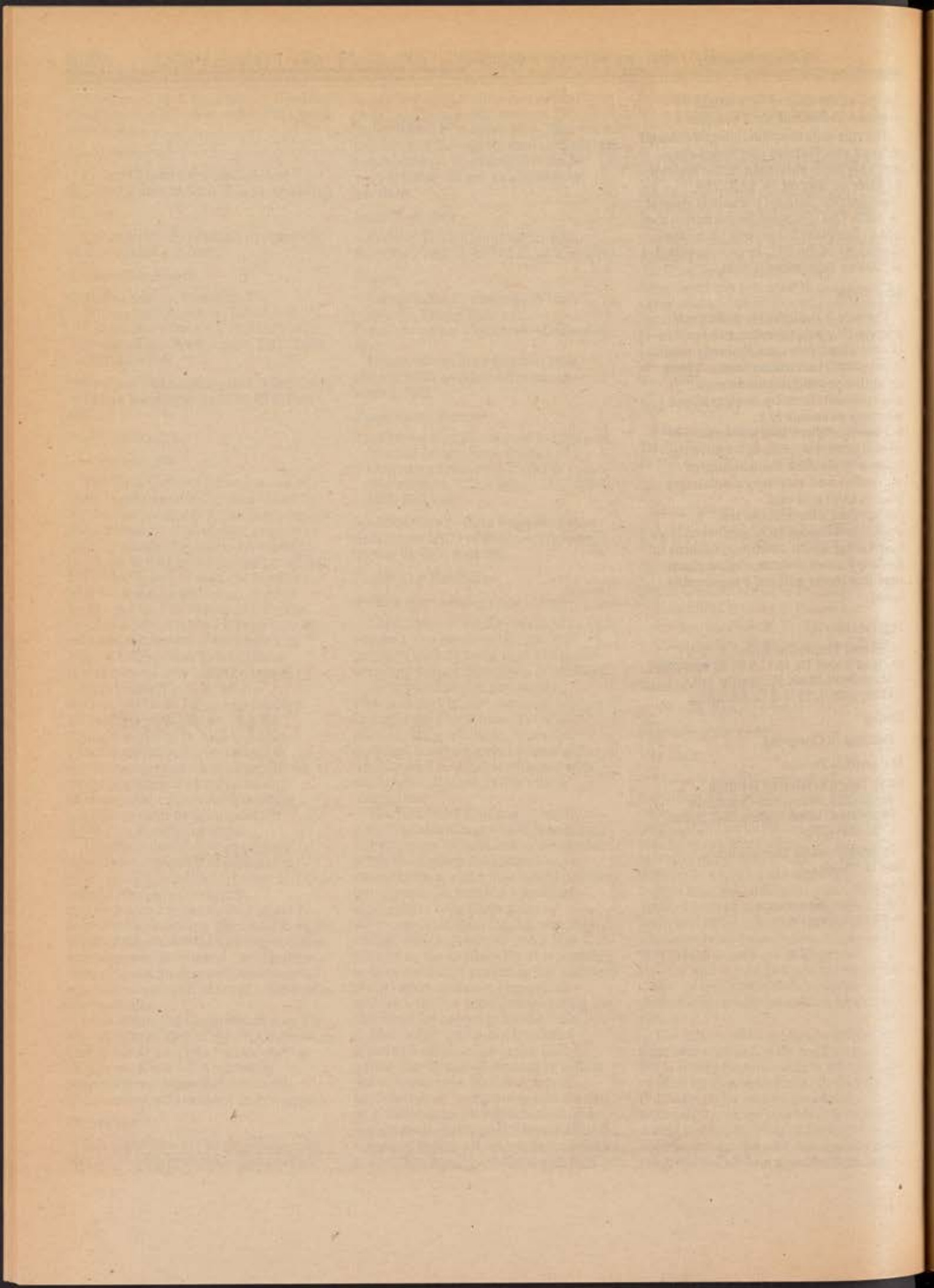
Susan Liss, Division of Product Reliability, Bureau of Consumer Protection, Washington, D.C. 20580, (202) 523-1670

By direction of the Commission.

Carol M. Thomas,
Secretary.

[FR Doc. 81-31900 Filed 10-30-81; 11:18 am]

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federal register

Wednesday
November 4, 1981

Part III

Department of Housing and Urban Development

Office of the Secretary

**Annual Publication of Systems of
Records**

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

(Docket No. N-81-1096)

Annual Publication of Systems of Records

AGENCY: Department of Housing and Urban Development.

ACTION: Annual publication of systems of records.

SUMMARY: This notice is published to meet the requirements of 5 U.S.C. 552a(e)(4). It is the annual publication providing an up-to-date description of the existence and character of the Department's system of records.

EFFECTIVE DATE: This notice is effective November 4, 1981.

FOR FURTHER INFORMATION CONTACT: Robert English, Departmental Privacy Act Officer, Telephone 202-755-5333. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: This annual publication brings together all HUD systems of records published to become effective through October 5, 1981. It includes notices published in our last annual compilation (45 FR 67608) and amendments and new systems which have been published to become effective through October 5, 1981. Although the Office of the Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection has been abolished, system managers are listed from that organization for five HUD Privacy Act systems. These systems are HUD/DEPT-22, HUD/DEPT-53, HUD/DEPT-61, HUD/DEPT-64, and HUD/NVACP-1. These system notices will be amended to identify new system managers as soon as issues surrounding their operation have been resolved.

There are a number of routine use disclosures which apply to most HUD systems of records. These routine use disclosures are listed below as "General Statement of Routine Uses."

(5 U.S.C. 552a, 88 Stat. 1896; Sec. 7(d), Department of HUD Act (42 U.S.C. 3535(d)))

Issued at Washington, D.C., October 29, 1981.

Judith L. Tardy,

Assistant Secretary for Administration.

1. General Statement of Routine Uses.

ROUTINE USE—LAW ENFORCEMENT

In the event that a system of records maintained by this Department to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and

whether arising by general statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation or order issued pursuant thereto.

ROUTINE USE—DISCLOSURE WHEN REQUESTING INFORMATION

A record from a system of records maintained by this Department may be disclosed as a routine use to a federal, state, or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to a component decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit.

ROUTINE USE—DISCLOSURE OR REQUESTED INFORMATION

A record from a system of records maintained by this Department may be disclosed to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

ROUTINE USE—DISCLOSURE TO OMB

The information contained in a system of records will be disclosed to the Office of Management and Budget in connection with review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that Circular, and for the purpose of evaluating the Department's credit and debt collection activities to further the goal of the President's Management Improvement Council.

ROUTINE USE—DISCLOSURE PURSUANT TO CONGRESSIONAL INQUIRY

Disclosures may be made to a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual.

2. Listing of Systems of Records Within Coverage of Act.

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HUD/DEPT-1	Accidents, Employees and/or Government Vehicles.
HUD/DEPT-2	Accounting Records.
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HUD/DEPT-9	Single-family Casualty Damage Files.
HUD/DEPT-10	Construction Complaints Files.
HUD/DEPT-15	Equal Opportunity Housing Complaints.
HUD/DEPT-17	Experimental Housing Allowance Program—Participant Files.
HUD/DEPT-18	Fellowship Files, Urban Studies.
HUD/DEPT-20	Homeownership Assistance and Recertification Application (HARAS).
HUD/DEPT-22	Housing Counseling.
HUD/DEPT-23	Single-family Research Files.
HUD/DEPT-24	Investigation Files.
HUD/DEPT-25	Legal Actions Files.
HUD/DEPT-28	Property Improvement and Manufactured (Mobile) Home Loans—Delinquent/Default.
HUD/DEPT-29	Rehabilitation Grants and Loans Files.
HUD/DEPT-32	Mortgages—Delinquent/Default/Assigned.
HUD/DEPT-34	Pay and Leave Records of Employees.
HUD/DEPT-37	Personnel Travel System.
HUD/DEPT-42	Rent Subsidy Program Files.
HUD/DEPT-43	Property Disposition Files.
HUD/DEPT-44	Relocation Assistance Files.
HUD/DEPT-46	Single Family Case Files.
HUD/DEPT-51	Standards of Conduct Files.
HUD/DEPT-52	Privacy Act Requesters.
HUD/DEPT-53	Consumer Complaint Handling System.
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HUD/DEPT-55	Executive Personnel Files.
HUD/DEPT-56	Telephone Numbers of HUD Officials.
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HUD/DEPT-60	Employee Emergency Reference File.
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HUD/DEPT-62	Claims Collection Records.
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HUD/DEPT-73 Government Property on Personal Charge Files.
 HUD/DEPT-74 Executive Emergency Cascade Alerting System.
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 HUD/CPD-1 Rehabilitation Loans-Delinquent/Default.
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 HUD/H-3 Single Family Housing Monitoring System (F-39).
 HUD/H-5 Single-family Homes Management Underwriting (CHUMS) System.
 HUD/H-6 Section 518 Files.
 HUD/H-7 Previous Participation Files.
 HUD/NVACP-1 Consumer Register Mailing List.
 HUD/PD&R-1 Urban Homesteading Evaluation Data.
 HUD/PD&R-2 Solar Energy Demonstration Survey Files.
 HUD/PD&R-3 Urban Reinvestment Task Force Data.
 HUD/PD&R-4 Prepurchase Counseling Demonstration and Evaluation Records.
 HUD/PD&R-5 HUD Community Development Block Grant Evaluation Files.
 HUD/PD&R-6 Real Estate Settlement Costs Research Files.
 HUD/PD&R-7 Section 8 Program Research Data Files.
 HUD/PD&R-8 Income Certification Evaluation Data Files.
 HUD/PD&R-9 Elderly Home Maintenance Demonstration Evaluation Data Files.
 HUD/PD&R-10 Home Repair Service for the Elderly: Baltimore Sample Data File.

HUD/DEPT-1**SYSTEM NAME:**

Accidents, Employees and/or Government Vehicles.

SYSTEM LOCATION:

Most Department Offices, including the Headquarters Office. For a complete listing of these offices, with addresses, see Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

HUD employees in on-the-job accidents, including accidents involving official use of motor vehicles.

CATEGORIES OF RECORDS IN THE SYSTEM:

Details of how accidents occurred and injuries were sustained; employees' absences due to injuries and resultant claims; and property damage incurred.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Occupational Safety and Health Act of 1970, P.L. 91-596.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See Routine Uses paragraphs in prefatory statement. Other routine uses: the records are used by the Department

of Labor when personal injury occurs and/or compensations is involved. GSA uses the records when accidents involve motor vehicles and the repair of those vehicles.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM**STORAGE:**

In file folders.

RETRIEVABILITY:

Subject name.

SAFEGUARDS:

The systems records are kept in lockable file cabinets, desks, and in locked rooms.

RETENTION AND DISPOSAL:

Procedural disposal follows: HUD Handbook General Records Schedule.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Policy Evaluation and Special Projects Division, Office of Administrative Services, AS Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

NOTIFICATION PROCEDURE:

For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

RECORD ACCESS PROCEDURES:

The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

CONTESTING RECORD PROCEDURES:

The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A, (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, General Counsel, Department of Housing and Urban Development, 451 Seventh Street S.W., Washington, D.C. 20410.

RECORD SOURCE CATEGORIES:

Subject individual and supervisor, Federal Government agencies; law

enforcement agencies; current or previous employers; accident investigation officers.

HUD/DEPT-2**SYSTEM NAME:**

Accounting Records.

SYSTEM LOCATION:

Headquarters and field offices. For a complete listing of these offices, with addresses, see Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Mortgagors; mortgagees; grant/project and loan applicants and recipients; HUD personnel; vendors; brokers; bidders; managers; tenants; individuals within Disaster Assistance Programs; builders, developers, contractors, and appraisers; individuals writing to the Department; employees on HUD/FHA projects; investors; subjects of audit; closing agents; former mortgagors and purchasers of HUD-owned properties.

CATEGORIES OF RECORDS IN THE SYSTEM:

Lease and loan collection register; schedules of payments receivable and received; premiums due; claim files and fee billing statements; escrow and Certificates of Deposit files; cash flow and budget control files; earnest money register; purchase order log; imprest fund; area managers' accounting records; restitution, maintenance, and market expenses; distributive shares records; salary; savings bonds; bills of lading; vouchers; invoices; receipts; cancelled checks; mortgages, builders and contractors financial statements, records and audit reports; requests for termination of home mortgage insurance; deposit and receipt records; detailed accounting reports concerning diversified payments, disbursements, and cancelled checks; repurchases of mortgages; adjustments from recoveries, manual adjustments, and defaults; acquired home property records; sales closing papers; statements of accounts; tax records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sec. 113 of the Budget and Accounting Act of 1950, 31 U.S.C. 66a. (Pub. L. 81-784).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See Routine Users paragraphs in prefatory statement. Other routine uses: U.S. Treasury—for disbursements and adjustments thereof; Internal Revenue Service—for reporting of sales commissions; General Accounting

Office, General Services Administration, Department of Labor, Local housing authorities, and taxing authorities—for audit, accounting and financial reference purposes; mortgage lenders—for accounting and financial reference purposes.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Desks; safes; locked filing cabinets; central files; bookcases; ledger trays and binders; tables; magnetic tape/disc/drum.

RETRIEVABILITY:

By Social Security number; name; case file number; schedule number; audit number; control number; receipt number; voucher number; contract number; address.

SAFEGUARDS:

Security checks, limited authorization and access, security guards; computer records are maintained in secure areas with access limited to authorized personnel and technical restraints employed with regard to accessing the records.

RETENTION AND DISPOSAL:

GSA schedules of retention and disposal; destruction after six months; transfer to either a Federal Records Center or Archives.

SYSTEM MANAGER AND ADDRESS:

Director, Office of Finance and Accounting, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

NOTIFICATION PROCEDURE:

For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

RECORD ACCESS PROCEDURES:

The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

CONTESTING RECORD PROCEDURES:

The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by

contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

RECORD SOURCE CATEGORIES:

Subject individuals; other individuals; current or previous employers; credit bureaus; financial institutions; private corporations or firms doing business with HUD; Federal and non-federal governmental agencies; HUD personnel.

HUD/DEPT—4

SYSTEM NAME:

Fee Inspectors, Appraisers, and Mortgage Credit Examiners.

SYSTEM LOCATION:

Field offices; for a complete listing of these offices, with addresses, see Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have applied to HUD for appointment as fee appraisers, inspectors, and mortgage credit examiners.

CATEGORIES OF RECORDS IN THE SYSTEM:

Applications and resumes containing personal data and qualifications for position sought; assignment logs, fees paid and appraisals made; and evaluation of qualifications and of appraisals made.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sections 203 and 226 of the National Housing Act, Pub. L. 73-479.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See Routine Uses paragraphs in prefatory statement. Other routine uses: to fee appraisers—for voucher preparation; to VA, mortgagors, mortgagees—notice of FHA action, billing; to local government officials—for code enforcement, health and wetlands clearance; to Environmental Protection Agency—for environmental clearance; to Social Security Administration—for research.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folders and 5 x 8 file cards.

RETRIEVABILITY:

Name; case file number (in some cases).

SAFEGUARDS:

Lockable file cabinets and desks.

RETENTION AND DISPOSAL:

Primarily active information; also mixed historical and active. Social Security appraisals are historical data. Disposal in accordance with HUD Handbook.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Single Family Development Division, HSSI, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

NOTIFICATION PROCEDURE:

For inquiry about existence of records, contact the Privacy Officer at the appropriate location, in accordance with procedures in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Officer at the appropriate location. A list of all locations is given in Appendix A.

RECORD ACCESS PROCEDURES:

The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

CONTESTING RECORD PROCEDURES:

The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate locations. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

RECORD SOURCE CATEGORIES:

Subject individuals; references; and HUD staff.

HUD/DEPT—5

SYSTEM NAME:

Architects and Engineers.

SYSTEM LOCATION:

Headquarters and field offices. For a complete listing of these offices, with addresses, see Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Certified architects and engineers dealing with HUD, both directly and on a consultant basis.

CATEGORIES OF RECORDS IN THE SYSTEM:

Applications containing personal data and qualifications for position sought and assignment logs and fees paid.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

National Housing Act, as amended, 12 U.S.C. 1702 et seq.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See Routine Uses Paragraph of prefatory statement. Other routine uses: to General Accounting Office—investigation and annual audit; to the U.S. Forest Service, Bureau of Indian Affairs, Corps of Engineers, HEW, and Farmers Home Administration for reference and information; to builders and other individuals dealing with HUD—for planning and specifications review.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**STORAGE:**

In file folders.

RETRIEVABILITY:

Subject name.

SAFEGUARDS:

Files are kept in file cabinets, in desks and on shelves. Access is limited by locks, by security checks, or by authorized individuals.

RETENTION AND DISPOSAL:

Most files are kept active and up-to-date. Some files are partly current and partly historical. Files are destroyed per regulation or stored at a federal records center one year after last date of commitment.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Single Family Development Division, HSSI, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

NOTIFICATION PROCEDURE:

For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

RECORD ACCESS PROCEDURES:

The Department's rules for providing access to records to the individual

concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

CONTESTING RECORD PROCEDURES:

The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

RECORD SOURCE CATEGORIES:

Subject individuals and references.

HUD/DEPT—9**SYSTEM NAME:**

Single-family Casualty Damage Files.

SYSTEM LOCATION:

Field offices; for a complete listing of these offices, with addresses, see Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Mortgagors under HUD single-family insurance programs filing claims for repairs due to casualty damage on their insured homes.

CATEGORIES OF RECORDS IN THE SYSTEM:

Inspection reports of repaired property; certifications of casualty damages/repairs; records of repairs made and their costs; and related correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 104(a), 105(a) Housing Act of 1964, (Pub. L. 88-560), 12 U.S.C. 1710, 1710(a).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See Routine Uses paragraphs in prefatory statement. Other routine uses: to Veterans' Administration for information on veterans' participation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**STORAGE:**

File folders.

RETRIEVABILITY:

Name; case file.

SAFEGUARDS:

Stored in lockable file cabinets.

RETENTION AND DISPOSAL:

Primarily active information, some mixed historical and active. Disposed of in accordance with HUD Handbook.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Single Family Loan Servicing Division, HSSI, 451 Seventh Street, S.W., Washington, D.C. 20410.

NOTIFICATION PROCEDURE:

For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

RECORD ACCESS PROCEDURES:

The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of locations is given in Appendix A.

CONTESTING RECORD PROCEDURES:

The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 4 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

RECORD SOURCE CATEGORIES:

Mortgagors, mortgagees; inspectors; and contractors.

HUD/DEPT—10**SYSTEM NAME:**

Construction Complaints files

SYSTEM LOCATION:

Field Offices; for a complete listing of these offices, with addresses, see Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Mortgagors of insured single-family homes who have filed construction complaints with HUD.

CATEGORIES OF RECORDS IN THE SYSTEM:

Complaints regarding construction and defects; inspection reports; records of complaint status and disposition; compliance reports; related correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

National Housing Act, as amended, 12 U.S.C. 1702 et seq.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See Routine Uses paragraphs in prefatory statement. Other routine uses: to the person or firm complained about—for resolution of the complaint; to IRS—for investigation; to Farmers Home Administration, Veterans Administration; Better Business Bureau and local agencies—for notice of restriction of builders; to state agencies—for investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**STORAGE:**

In file folders.

RETRIEVABILITY:

Name of subject individual; case file number, property location.

SAFEGUARDS:

Records filed in lockable file cabinets with access limited to authorized personnel.

RETENTION AND DISPOSAL:

Records are partly current and partly historical; disposal is in accordance with HUD Handbook.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Single Family Development Division, HSSI, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

NOTIFICATION PROCEDURE:

For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

RECORD ACCESS PROCEDURES:

The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

CONTESTING RECORD PROCEDURES:

The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

RECORD SOURCE CATEGORIES:

Subjects and other individuals, builders and contractors and their current and previous employees, credit bureaus and financial institutions; federal and non-federal agencies.

HUD/DEPT—15**SYSTEM NAME:**

Equal Opportunity Housing Complaints

SYSTEM LOCATION:

Housing discrimination files are located at the office where originated and may also be transferred to associated area and/or regional offices, or the Headquarters Office. For a complete listing of these with addresses see Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals filing housing discrimination complaints. Does not include files on HUD employee complaints regarding their employment. Notices regarding these inquiries under the Privacy Act are published by the U.S. Civil Service Commission.

CATEGORIES OF RECORDS IN THE SYSTEM:

Allegations of housing discrimination; names of complainant and persons or organizations complained about; investigation information; details of discrimination cases; compliance reviews; complaints under Titles VI, VIII and IX; conciliation files; correspondence; affidavits; complaints status reports. In mortgage discrimination cases, records include mortgage applications, credit reports and verification of income, employment and bank deposits.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title VIII of the Civil Rights Act of 1978, Sec. 810(a); 42 U.S.C. 3610(a).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See Routine Uses paragraphs in prefatory statement. Other routine uses: to state and local government EO-concerned agencies, the U.S. Department of Justice (including the FBI), the U.S. Department of Labor (including the Office of Federal Contract Compliance), U.S. Courts, the Veterans Administration, the Farmers' Home Administration, complainants, respondents and attorneys—for investigation, preparing litigation, and monitoring compliance.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**STORAGE:**

Records kept in lockable desks and file cabinets and magnetic tape/disc/drum.

RETRIEVABILITY:

Usually retrievable by name of complainant and, in some instances, by case file number.

SAFEGUARDS:

Manual records are stored in lockable file cabinets; computer facilities are secured and accessible only by authorized personnel, and all files are stored in a secured area. Technical restraints are employed with regard to accessing the computer and data files.

RETENTION AND DISPOSAL:

HUD handbooks establish procedures for retention and disposition of records. Generally retained for two years, then transferred to Federal Records Centers for an additional five years.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Fair Housing Enforcement and Section 3 Compliance, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

NOTIFICATION PROCEDURE:

For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

RECORD ACCESS PROCEDURES:

The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

CONTESTING RECORD PROCEDURES:

The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appears in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

RECORD SOURCE CATEGORIES:

Subject and other individuals, Federal and non-federal government agencies, law enforcement agencies, credit bureaus, financial institutions, current and previous employers, corporations or firms, EO counselors and witnesses.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to 5 U.S.C. 552a(k)(2), all investigatory material, including conciliation files, in records contained in this System which meet the criteria of these sub-sections is exempted from the notice, access, and contest requirements (under 5 U.S.C. 552a (c)(3), (d), (e)(1), (e)(4), (G), (H), and (I), and (f) of the agency regulations in order for the Department's Fair Housing and Equal Opportunity and legal staffs to perform their functions properly.

HUD/DEPT—17**SYSTEM NAME:**

Experimental Housing Allowance Program—Participant Files.

SYSTEM LOCATION:

Headquarters Office.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants for housing allowance; participants under Experimental Housing Allowance Program.

CATEGORIES OF RECORDS IN THE SYSTEM:

Socio-economic, financial and demographic data on EHAP participant.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 504, Housing and Urban Development Act of 1970, as amended by Section 804 of the 1974 Act; 12 U.S.C. 1701z-3.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See Routine Uses paragraphs in prefatory statement. Other routine uses: to EHAP contractors—analysis for research purposes in accordance with program objectives.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**STORAGE:**

Hard copy survey instrument stored in folders, microform, computer printout, punched cards, and magnetic tape/disc.

RETRIEVABILITY:

Manual files by name, social security number, personnel characteristics and case file number. Automated files have been stripped of all personnel identifiers and are statistical only.

SAFEGUARDS:

Access to manual files limited to survey subcontractors. No access to these records prime contractors and HUD personnel. Records kept in secured areas and vaults.

RETENTION AND DISPOSAL:

In accordance with HUD Handbook.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Housing Assistance Research Division, TRH, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

NOTIFICATION PROCEDURE:

For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the Headquarters location, in accordance with 24 CFR Part 16. This location is given in Appendix A.

RECORD ACCESS PROCEDURES:

The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at Headquarters. This location is given in Appendix A.

CONTESTING RECORD PROCEDURES:

The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the Headquarters location. This location is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals

Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

RECORD SOURCE CATEGORIES:

Subject individual; current and previous employers.

HUD/DEPT—18**SYSTEM NAME:**

Fellowship Files, Urban Studies.

SYSTEM LOCATION:

Headquarters.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Recipients of HUD fellowships in urban studies, and their alternates.

CATEGORIES OF RECORDS IN THE SYSTEM:

Applications; financial statements; correspondence; policy statements; press releases.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 802, Title VIII of the Housing Act of 1964. (P.L. 88-560), 20 U.S.C. 802.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See Routine Uses paragraphs in prefatory statement. Other routine uses: none.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**STORAGE:**

Free test in file folders.

RETRIEVABILITY:

By name of award recipient and alternate.

SAFEGUARDS:

Files are stored in lockable metal file cabinets.

RETENTION AND DISPOSAL:

Files are inactive and historical only. There are no established procedures for disposal of these records.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Planning Assistance Division, Office of Planning and Program Coordination, Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

NOTIFICATION PROCEDURE:

For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the Headquarters

location, in accordance with 24 CFR Part 16. This location is given in Appendix A.

RECORD ACCESS PROCEDURES:

The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at Headquarters. This location is given in Appendix A.

CONTESTING RECORD PROCEDURES:

The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the Headquarters location. This location is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

RECORD SOURCE CATEGORIES:

Individual awardees and alternates; educational institutions.

HUD/DEPT—20

SYSTEM NAME:

Homeownership Assistance and Recertifications Application (HARAS).

SYSTEM LOCATION:

Headquarters.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Participants in Section 235 Homeownership Assistance Program.

CATEGORIES OF RECORDS IN THE SYSTEM:

Historical profile of participant group.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

National Housing Act of 1934 Sec. 235(a)(f) (as amended by Sec. 101 of the Housing and Urban Development Act of 1968), 12 U.S.C. 1715z.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See Routine Uses paragraphs of prefatory statement. Other routine uses: none.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic tape/disc/drum.

RETRIEVABILITY:

Case file number.

SAFEGUARDS:

Computer Facilities are secured and accessible only by authorized personnel, and all files are stored in a secured area. Technical restraints are employed with regard to accessing the computer and data files.

RETENTION AND DISPOSAL:

Records system is active and kept up-to-date.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Single Family Loan Servicing Division, HSSL, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

NOTIFICATION PROCEDURE:

For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the Headquarters location, in accordance with 24 CFR Part 16. This location is given in Appendix A.

RECORD ACCESS PROCEDURES:

The Department's rules for providing access to records to the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at Headquarters. This location is given in Appendix A.

CONTESTING RECORD PROCEDURES:

The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the Headquarters location. This location is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

RECORD SOURCE CATEGORIES:

Applications; recertifications; Single-family Statistical Reporting System.

HUD/DEPT—22

SYSTEM NAME:

Housing Counseling.

SYSTEM LOCATION:

Headquarters and field offices. For a complete listing of these offices, with addresses, see Appendix A. In addition to these offices, HUD-approved counseling agencies in many cities, both voluntary and paid by the Department,

maintain files of this type. To determine whether such an agency exists in a particular city, contact the nearest HUD field office shown in Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system contains records of individuals who have been referred but not counseled; individuals who have been or are receiving counseling and assistance with housing problems and related family and financial problems, as well as individuals seeking general and consumer information.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains records of dates of counseling, summaries of aid furnished the individual being counseled, correspondence with or on behalf of the individual being counseled, standard forms, letters and reports, purchase and financial data, medical history, employment information and problems, family composition, referral information and specific family and/or individual problems.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 106(a) of the 1968 Housing Act; 12 U.S.C. 1701x.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See Routine Uses paragraphs in prefatory statement. Other routine uses: to HUD-approved counseling agency staff for the purpose of providing supportive counseling services to meet the short and long term needs of the individual being counseled. Financial institutions servicing HUD insured or assisted loans; local housing authorities; rental agents and managers; real estate brokers, agents and creditors have access only to current financial, employment and family composition data regarding persons currently being counseled. Data available to these institutions and individuals in such circumstances is limited to: savings/checking/credit union account records, commercial credit reports, and credit account records with utility companies, retail stores, and other commercial credit sources; specific employment information concerning name and address of employer, length of service, and salary; and family composition data through the authorized counseling agency or HUD staff. Community service agencies to which the individual being counseled is referred for additional supportive services have limited access to information appropriate to the reason for referral.

only through authorized counseling agency staff.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The records are stored in paper files which are kept in standard lockable file cabinets and desks.

RETRIEVABILITY:

Records are retrievable by name, case number or property address.

SAFEGUARDS:

During the counseling process and the retention period, records are maintained in confidential files with access limited to those whose official duties require access.

RETENTION AND DISPOSAL:

Counseling records are maintained by the counseling agency for as long as the individual being counseled participates in the program and up to five (5) years thereafter. The Department may maintain summary records of the counseling for as long as the individual being counseled lives in HUD-insured or assisted property.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Consumer Affairs, NVACP, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

NOTIFICATION PROCEDURE:

For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

RECORD ACCESS PROCEDURES:

The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

CONTESTING RECORD PROCEDURES:

The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officers, Office of General

Counsel, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

RECORD SOURCE CATEGORIES:

Information in this system of records is: (1) supplied directly by the individual, and/or (2) supplied by a member of the individual's family, and/or (3) supplied by mortgages, employers (past and present), creditors and credit reports, landlords (both public and private) and/or (4) supplied by sources to whom the individual being counseled has been referred, or has gone to for assistance, and/or (5) derived from information supplied by the individual, and/or (6) supplied by Department officials and/or (7) supplied by program counselors.

HUD/DEPT-23

SYSTEM NAME:

Single-family Research files.

SYSTEM LOCATION:

Headquarters Office.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Single-family mortgagors.

CATEGORIES OF RECORDS IN THE SYSTEM:

Sample of single-family home cases for most recent five-year period.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

National Housing Act of 1934 (PL 73-479), Sec. 209.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See Routine Uses paragraphs in prefatory statement. Other routine uses: none.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic tape/disc/drum.

RETRIEVABILITY:

Name; case file number; property address.

SAFEGUARDS:

Computer facilities are secured and accessible only by authorized personnel, and all files are stored in a secured area. Technical restraints are employed with regard to accessing the computer and data files.

RETENTION AND DISPOSAL:

Records system is active and kept up-to-date.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Single Family Insured Branch, Management Information Systems Division, HAI, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

NOTIFICATION PROCEDURE:

For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the Headquarters location, in accordance with 24 CFR Part 16. This location is given in Appendix A.

RECORD ACCESS PROCEDURES:

The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at Headquarters. This location is given in Appendix A.

CONTESTING RECORD PROCEDURES:

The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the Headquarters location. This location is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

RECORD SOURCE CATEGORIES:

Subject individuals; financial institutions; federal government agencies.

HUD/DEPT-24

SYSTEM NAME:

Investigation Files.

SYSTEM LOCATION:

Headquarters.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

HUD program participants and HUD employees involved in matters under Office of Inspector General cognizance, and HUD investigators.

CATEGORIES OF RECORDS IN THE SYSTEM:

Manual Files contain information concerning investigation of alleged irregularities in connection with HUD programs and include initial complaints filed against subjects alleging violation, reports of investigation, findings of HUD officials and recommendations and disposition to be made. Manual and

automated files contain case file number, status and disposition, investigator name and number, and staff hour usage.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Inspector General Act of 1978, Pub. L. 95-452.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See Routine Use paragraphs in prefatory statement. Other routine uses: to Department of Labor—for investigative research; as a data source for management information for production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained; or for related personnel management functions or manpower studies. Files may also be used to respond to general requests for statistical information (without personal identification of individuals) under the Freedom of Information Act, or to locate specific individuals for personnel research or other personnel management functions.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders. The automated portion of the system is stored on magnetic tape/disc/drum.

RETRIEVABILITY:

Manual records can be retrieved by name, investigation file number, case number; manual records containing investigator time accounting information can be retrieved by investigator name, and investigator number. Information in automated records can be retrieved by case file number, investigator name, and investigator number.

SAFEGUARDS:

Manual Records are maintained in locked file cabinets or in metal file cabinets in secured rooms or premises with access limited to those persons whose official duties require access. Computer terminals are secured in controlled areas which are locked when unoccupied. Access to automated files is limited to authorized personnel who must use a password system to gain access.

RETENTION AND DISPOSAL:

Records are primarily active; however, records are destroyed in conformance with Records Schedule 28 (Investigation Records) Appendix 28. HUD Handbook 2225.6.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Administrative Support Staff, Office of the Inspector General, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410.

NOTIFICATION PROCEDURE:

For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the Headquarters location, in accordance with 24 CFR Part 16. This location is given in Appendix A.

RECORD ACCESS PROCEDURES:

The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is needed, contact the Privacy Act Officer at the Headquarters location. This location is given in Appendix A.

CONTESTING RECORD PROCEDURES:

The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting (i) in relation to contesting contents of records, Privacy Act Officer at the Headquarters location. This location is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410.

RECORD SOURCE CATEGORIES:

Subject individuals; other individuals; current or previous employers; credit bureaus; financial institutions; corporations or firms; law enforcement agencies.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to 5 U.S.C. 552a(k)(2) and (k)(5), all investigatory material in the record which meets the criteria of these sub-sections is exempted from the notice, access, and content requirements (under 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I) and (f)) of the agency regulations in order for the Department's legal staff to perform its functions properly.

HUD/DEPT-25

SYSTEM NAME:

Legal Actions Files

SYSTEM LOCATION:

Headquarters and field offices. For a complete listing of these offices, with addresses, see Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Litigants; potential and past claimants against the government.

CATEGORIES OF RECORDS IN THE SYSTEM:

Threatened, pending and past litigation involving HUD as a party; summons; writs; indictments; pleadings; decisions; legal memoranda; litigation reports; deposition; deficiencies on court judgments; notices of levy; settlement negotiations; legal rulings; claims against the government; employee claims.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 3533; 42 U.S.C. 3535.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See Routine Uses paragraphs in prefatory statement. Other routine uses: to Justice Department—for information for purposes of litigation, and representation of HUD before the courts and performance of all legal work incident thereto; to HEW—for investigation and litigation; to IRS—for investigation, litigation and collection of levies; to Local Housing Authorities—for investigation and litigation; to local governments—for investigation and litigation; to parties to litigation—to provide status and facts in litigations; to private individuals and corporations—to assist co-defendants or to provide documents and information as required by the Federal Rules or Civil Procedure; various uses under the Freedom of Information Act.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file cabinets.

RETRIEVABILITY:

Name, case names; case numbers assigned by courts.

SAFEGUARDS:

Records maintained in locked and lockable metal file cabinets with access limited to authorized personnel.

RETENTION AND DISPOSAL:

Files are partly active and partly historical; disposal in accordance with HUD Handbook.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Administrative Services Staff, Office of General Counsel, GA, Department of Housing and Urban

Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

NOTIFICATION PROCEDURE:

For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

RECORD ACCESS PROCEDURES:

The Department's rules for providing access to records to the individuals concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

CONTESTING RECORD PROCEDURES:

The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

RECORD SOURCE CATEGORIES:

Subject individuals; other individuals; current or previous employers; financial institutions; firms and corporations; Federal government agencies; non-Federal government agencies; and Federal, state, and local courts.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to 5 U.S.C. 552a(k)(2) and (k)(5), all investigatory material in the record which meets the criteria of these subsections is exempted from the notice, access, and contest requirements (under 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I) and (f) of the agency regulations in order for the Department's legal staff to perform its functions properly.

HUD/DEPT-28

SYSTEM NAME:

Property Improvement and Manufactured (Mobile) Home Loans—Delinquent/Default.

SYSTEM LOCATION:

Headquarters and field offices. For a complete listing of these offices, with addresses, see Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Manufactured (mobile) home and home improvement loan debtors who are delinquent or in default on their loans.

CATEGORIES OF RECORDS IN THE SYSTEM:

Names, credit applications, Social Security Number where available, case histories of borrowers; records of payment; financing statements; notes; mortgages and other evidences of indebtedness; delinquent and defaulted loan records and account cards; collection and field reports; records of claims and chargeoffs; creditor requests for collection assistance; justifications for closing collection action; related correspondence and documents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title I, Sec. 2, National Housing Act, 12 U.S.C. 1703, Federal Claims Collection Act of 1966 (Sec. 1, Pub. L. 89-508).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See Routine Use paragraphs in prefatory statement. Other routine uses: Department of Justice—for prosecution of fraud revealed in the course of claims collection efforts and for the institution of suit or other proceedings to effect collection of claims; FBI—for investigation of possible fraud revealed in the course of claims collection efforts; General Accounting Office—for audit purposes; private employers and Federal agencies—to facilitate collection of claims against employees; Office of Personnel Management—for offsetting retirement payments; consumer reporting and commercial-credit agencies—to facilitate claims collection consistent with Federal Claims Collection Standards, 4 CFR Section 102.4; to financial institutions that originated or serviced loans—to give notice of disposition of claims; to title insurance companies—for payment of liens; to local recording offices—for filing assignments of legal documents, satisfactions, etc.; to bankruptcy courts—for filing of proofs of claim; and to state motor vehicle agencies—to obtain current addresses of debtors.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folders and on magnetic tape/disc/drum.

RETRIEVABILITY:

Claim number, name or other identification number.

SAFEGUARDS:

Manual files are kept in lockable cabinets or rooms; automated records are maintained in secured areas. Access to either type of record is limited to authorized personnel.

RETENTION AND DISPOSAL:

Files are partly active and partly historical and are disposed of in accordance with HUD Handbook 2225.8.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Title I Insured Loans, HSS, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

NOTIFICATION PROCEDURE:

For information, assistance or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

RECORD ACCESS PROCEDURES:

The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

CONTESTING RECORD PROCEDURES:

The Department's rules for contesting the contents of records and appealing initial denials by the individual concerned appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

RECORD SOURCE CATEGORIES:

Subject individual; current and previous employers; credit bureaus; financial institutions; business firms; federal and non-federal agencies; law enforcement agencies; title companies and abstractors; bankruptcy courts.

HUD/DEPT-29

SYSTEM NAME:

Rehabilitation Grants and Loans Files.

SYSTEM LOCATION:

Field offices; for a complete listing of these offices, with addresses, see Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants who have applied for rehabilitation grants and loans.

CATEGORIES OF RECORDS IN THE SYSTEM:

Names of borrowers, builders, dealers and contractors; loan and grant applications and eligibility information; loan and grant documents; payment records; registration records; collection records; complaint records; related correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 312, Housing Act of 1964, as amended (P.L. 88-560), 42 U.S.C. 1452(b).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See Routine Uses paragraphs in prefatory statement. Other routine uses: to local agencies—for monitoring and carrying out the program; to financial institutions—for providing supplemental rehabilitation funds; to credit reporting agencies, employers, financial institutions, and retail consumer credit grantors—for verification of employment and financial status; and to Federal National Mortgage Association and loan servicers—for loan servicing.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**STORAGE:**

In file folders and/or on magnetic tape/disc/drum.

RETRIEVABILITY:

By name, property address and case file number of individual covered.

SAFEGUARDS:

Records stored in lockable file cabinets and technical restraints are employed with regard to accessing computer files.

RETENTION AND DISPOSAL:

Records are primarily active with some historical information; disposal is in accordance with HUD Handbook.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Rehabilitation Management Division, Office of Urban Rehabilitation and Community Reinvestment, Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

NOTIFICATION PROCEDURE:

For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

RECORD ACCESS PROCEDURES:

The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

CONTESTING RECORD PROCEDURES:

The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A. (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

RECORD SOURCE CATEGORIES:

Financial institutions; subject and other individuals; federal and non-federal agencies; firms, current and previous employers; law enforcement agencies; credit reporting agencies.

HUD/DEPT-32**SYSTEM NAME:**

Delinquent/Default/Assigned

SYSTEM LOCATION:

Headquarters and field offices. For a complete listing of these offices, with addresses, see Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Mortgagors with HUD/FHA insured single-family mortgages that are delinquent or in default; mortgagors seeking assistance to prevent foreclosures; and mortgagors whose mortgages are held by HUD.

CATEGORIES OF RECORDS IN THE SYSTEM:

Notices of delinquent mortgages; requests for forbearance or assignment; forbearance or assignment reviews include data on mortgage amount and payments made, employment and income, debts and expenses, reasons for delinquency, recommendations and actions on requests; credit reports;

forebearance agreements; deeds of trust; and related correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sec. 114(a), Housing Act of 1959, (P.L. 86-372), 12 U.S.C. 1702 et seq.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See Routine Uses paragraphs in prefatory statement. Other routine uses: to FHA—for insurance investigations; to IRS and GAO—for investigations; to state banking agencies—to aid in processing mortgagor complaints; to state housing and redevelopment agencies—for follow-up servicing; to mortgagees—to check on the status of cases and referrals of complaints; to counseling agencies—for counseling; to Legal Aid—to assist mortgagors.

STORAGE:

In file folders and on magnetic tapes, drums, and discs.

RETRIEVABILITY:

Name; case file number; property address.

SAFEGUARDS:

Records maintained in desks and lockable file cabinets; access to automated systems is by passwords and code identification cards; access limited to authorized personnel.

RETENTION AND DISPOSAL:

Obsolete records destroyed or shipped to Federal Records Center in compliance with HUD Handbook.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Single Family Loan Servicing Division, HSSL, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

NOTIFICATION PROCEDURE:

For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

RECORD ACCESS PROCEDURES:

The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

CONTESTING RECORD PROCEDURES:

The Department's rules for contesting the contents of records and appealing

initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

RECORD SOURCE CATEGORIES:

Subject individual; other individuals; current or previous employers; credit bureaus; financial institutions; other corporations or firms; Federal Government agencies; non-federal government (including foreign, state and local) agencies; law enforcement agencies.

HUD/DEPT-34

SYSTEM NAME:

Pay and Leave Records of Employees.

SYSTEM LOCATION:

All Department offices. For a complete listing of offices, with addresses, see Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

HUD employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, Social Security Number and employee number, grade, step, and salary; organization, retirement or FICA data as applicable; Federal, state and local tax deductions; regular and optional Government life insurance deduction(s), health insurance deduction and plan or code; cash award data; jury duty data; military leave data; pay differentials; union dues deduction; allotments by type and amount; financial institution code and employee account number; leave status and data of all types (including annual, compensatory, jury duty, maternity, military, retirement disability, sick, transferred, and without pay); time and attendance records, including leave applications and reports, individual daily time reports, adjustments to time and attendance, overtime reports, supporting data, such as medical certificates, number of regular, overtime, holiday, Sunday and other hours worked; pay period number and ending dates; cost of living allowances; mailing address; co-owner and/or beneficiary of bonds, marital status and number of dependents; and "Notification of Personnel Actions."

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 7(d), Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See Routine Uses paragraphs in prefatory statement. Other routine uses: Transmittal of data to U.S. Treasury to effect issuance of paycheck to employees and distribution of pay according to employee directions for savings bonds, allotments, financial institutions and other authorized purposes. Annual reporting of W-2 statements to Internal Revenue Service, Social Security Administration, the individual, and taxing authorities of States, the District of Columbia, territories, possessions, and local governments, except Social Security Numbers will be reported only to such authorities that have satisfied the requirements set forth in Section 7(a)(2)(B) of the Privacy Act of 1974. To the Office of Personnel Management concerning pay, benefits, retirement deductions, and other information necessary for the Office to carry on its Government-wide personnel functions; to GAO—for audit; to other Federal government agencies—to facilitate employee transfers; to State agencies—to verify workmen's compensation injury claims; time and attendance data—to contractor for scanning, keying, producing error lists, and producing input media.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual, machine-readable and magnetic media.

RETRIEVABILITY:

Name of employee; Social Security Number.

SAFEGUARDS:

Physical technical, and administrative security is maintained with all storage equipment and/or rooms locked when not in use. Admittance, when open, is restricted to authorized personnel only. All payroll personnel and computer operators and programmers are instructed and cautioned on the confidentiality of the records. Manual files kept in lockable desks, file cabinets and safes.

RETENTION AND DISPOSAL:

Retained on site until after GAO audit, then disposed of, or transferred to Federal Records Storage Centers in

accordance with fiscal records program approval by GAO, as appropriate, or General Record Schedules of GSA.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Personnel Systems and Payroll Division, Office of Personnel, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410.

NOTIFICATION PROCEDURE:

For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with procedures in 24 CFR Part 16. A list of all locations is given in Appendix A.

RECORD ACCESS PROCEDURES:

The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

CONTESTING RECORD PROCEDURES:

The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A, (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410.

RECORD SOURCE CATEGORIES:

Subject individuals, supervisors, timekeepers, official personnel records, previous employers, or other Federal government agencies.

HUD/DEPT-37

SYSTEM NAME:

Personnel Travel System.

SYSTEM LOCATION:

All Department offices maintain employee travel records. For a complete listing of offices, with addresses, see Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

HUD personnel.

CATEGORIES OF RECORDS IN THE SYSTEM:

All travel records, including vouchers, requests, advances, receipts for requests, orders.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 7(d) of the Department of Housing and Urban Development Act of 1965, P.L. 89-174; Budget and Accounting Act of 1950, 31 U.S.C. 66a.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USES AND THE PURPOSES OF SUCH USES:

See Routine Uses paragraphs in prefatory statement. Other routine uses: to Treasury—for payment of vouchers; vouchers and receipts are available to GAO and GSA for audit purposes and vouchers are verified by private transporters.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**STORAGE:**

In file folders and on magnetic tape/disc/drum.

RETRIEVABILITY:

Almost always retrievable by name, occasionally by Social Security number.

SAFEGUARDS:

Lockable desks or file cabinets; computer records are maintained in secure areas with access limited to authorized personnel and technical restraints employed with regard to accessing the records.

RETENTION AND DISPOSAL:

Records are active and kept up-to-date. Files purged in accordance with HUD Handbook.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Finance and Accounting, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

NOTIFICATION PROCEDURE:

For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

RECORD ACCESS PROCEDURES:

The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

CONTESTING RECORD PROCEDURES:

The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of record, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

RECORD SOURCE CATEGORIES:

Subject individual and supervisors.

HUD/DEPT-42**SYSTEM NAME:**

Rent Subsidy Program Files.

SYSTEM LOCATION:

Headquarters and field offices. For a complete listing of these offices, with addresses, see Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Low-rent housing applicants and recipients under Section 236 and Rent Supplement programs.

CATEGORIES OF RECORDS IN THE SYSTEM:

Applications for rent subsidy and recertifications include name, address, telephone number, race, household composition, employment data, detailed financial information, monthly rent payment and supplement calculations, HUD review and certification, description of rental unit participant will occupy; subsidized tenant move-out records; verification of employment, income and bank deposits, credit bureau reports; and related correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sec. 201 of the Housing and Community Development Amendments of 1978, (12 U.S.C. 1715z-1a), Sec. 101 of the Housing Act of 1965 (12 U.S.C. 1701s).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USES AND THE PURPOSES OF SUCH USES:

See Routine Uses paragraphs in prefatory statement. Other routine uses: to General Accounting Office—for purposes of audit; to IRS—for investigation; to local and state housing authorities—for reference purposes.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**STORAGE:**

In file folders and on magnetic tape/disc/drum.

RETRIEVABILITY:

Name; case file number.

SAFEGUARDS:

Limited access; lock file cabinets; security checks and limited authorization to secured computer facilities.

RETENTION AND DISPOSAL:

Files are active and kept up-to-date; partly current and partly historical. Files are either sent to GSA Federal Record Center for storage or disposed in accordance with HUD Handbook.

SYSTEM MANAGER(S) ADDRESS:

Director, Program Planning Division, HMHO, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

NOTIFICATION PROCEDURE:

For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

RECORD ACCESS PROCEDURES:

The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

CONTESTING RECORD PROCEDURES:

The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

RECORD SOURCE CATEGORIES:

Subject individual; other individuals; current or previous employers; credit bureaus; financial institutions; other corporations or firms; federal

government agencies; non-federal government agencies; project and project managers.

HUD/DEPT—43

SYSTEM NAME:

Property Disposition Files.

SYSTEM LOCATION:

Headquarters and field offices. For a complete listing of these offices, with addresses, see Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Mortgagors with HUD/FHA insured single-family homes who have had their mortgages foreclosed and properties acquired by HUD; individuals who have had their properties acquired by the Department of Defense and transferred to HUD; single-family mortgagors who defaulted on Section 312 loans and had their properties acquired by HUD; and potential buyers of HUD-held single-family properties.

CATEGORIES OF RECORDS IN THE SYSTEM:

Documents pertaining to acquisition of foreclosed HUD/FHA insured single-family homes and single-family homes transferred from the Department of Defense. The documents include names, addresses, loan amounts and payments, and reasons for default; leases and rental information if properties are rented; purchasers' family characteristics, income and employment histories, credit reports, sales contracts, and settlement costs; and related correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

National Housing Act of 1937 as amended (P.L. 75-412).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See Routine Uses paragraphs in prefatory statement. Other routine uses: to IRS—for auditing income tax returns; to insurance companies—to file claims for amounts due; to mortgagees—to review the credit of prospective purchasers; to local public authorities—to check on acquisition, reuse and sales of real estate.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

In file folders.

RETRIEVABILITY:

Case file number and property address.

SAFEGUARDS:

Desk; lockable file cabinet; secured computer facilities. Access restricted.

RETENTION AND DISPOSAL:

Obsolete records are destroyed or sent to storage facility in accordance with HUD Handbook.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Single Family Preservation and Sales Division, HSSP, Office of Single Family Housing, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

NOTIFICATION PROCEDURE:

For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

RECORD ACCESS PROCEDURES:

The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

CONTESTING RECORD PROCEDURES:

The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

RECORD SOURCE CATEGORIES:

Subject individuals; other individuals; current or previous employers; credit bureaus; financial institutions; other corporations or firms; federal government agencies; non-federal (including foreign, state and local) government agencies; real estate brokers and agents.

HUD/DEPT—44

SYSTEM NAME:

Relocation Assistance Files.

SYSTEM LOCATION:

Headquarters and field offices. For a complete listing of these offices, with addresses, see Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Displaced persons and relocation claimants who have filed grievances.

CATEGORIES OF RECORDS IN THE SYSTEM:

Names of relocation claimants; family characteristics; personal and family financial data; relocation needs and problems; claims; documentation and evaluation of claims; recommendations; inquiries and grievances; responses to grievances; audits.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646), Sec. 205(c)(2), 42 U.S.C. 4625.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See Routine Uses paragraphs in prefatory statement. Other routine uses: to GAO—for audit purposes; to the Department of Justice—for investigation and prosecution; to local public agencies—for processing, training and monitoring purposes.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

In file folders.

RETRIEVABILITY:

By name and case file number of subject individual.

SAFEGUARDS:

Stored in lockable file cabinets; access limited to authorized personnel.

RETENTION AND DISPOSAL:

Files are partly active and partly historical, disposal is in accordance with HUD Handbook.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Relocation and Real Estate Division, Office of Urban Rehabilitation and Community Reinvestment Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

NOTIFICATION PROCEDURE:

For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

RECORD ACCESS PROCEDURES:

The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

CONTESTING RECORD PROCEDURES:

The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Department at Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

RECORD SOURCE CATEGORIES:

Subject and other individuals; current and previous employers; credit bureaus and financial institutions; firms federal and non-federal agencies.

HUD/DEPT—46**SYSTEM NAME:**

Single Family Case Files

SYSTEM LOCATION:

Headquarters and field offices. For a complete listing of these offices, with addresses, see Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have applied for HUD/FHA mortgage insurance in connection with single family housing programs of the department.

CATEGORIES OF RECORDS IN THE SYSTEM:

Files contain standard records used for day-to-day maintenance of single-family mortgage cases, including daily case control, mortgage servicing, payment records, loan recommendations, information concerning borrower inability to make payments, cancellations and monies returned. Also, requests for refinancing income and employment information used in determination of applicant eligibility, insurance documents, sales agreements, conditional and firm commitments, owner requests for appraisals, property descriptions, appraisal and inspection reports; verification of employment and income; credit bureau reports; mortgage note and

deed of trust; record of escrow account; correspondence and complaints.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

National Housing Act as amended, 12 U.S.C. 1702 et seq.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See Routine Uses paragraphs of prefatory statement. Other routine uses: to welfare agencies—for fraud investigation, to VA—for coordination with HUD in processing construction complaints. Congressional delegation—providing information concerning status of complaints. Complainants and attorneys representing them—review of complainant file for status and information. Builders and attorneys representing them—review of complainant file for status information.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.**STORAGE:**

In file folders and computerized tape, disc and drum.

RETRIEVABILITY:

Filed by name of individual and case file number.

SAFEGUARDS:

Records maintained in locked and lockable file cabinets with access limited to authorized personnel.

RETENTION AND DISPOSAL:

Records are primarily active with some historical data. Inactive files are normally disposed after a two-year period.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Single Family Housing, HSS, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

NOTIFICATION PROCEDURE:

For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

RECORD ACCESS PROCEDURES:

The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

CONTESTING RECORD PROCEDURES:

The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

RECORD SOURCE CATEGORIES:

Subject individuals; current or previous employers; credit bureaus and financial institutions; corporations and firms and federal and non-federal government agencies.

HUD/DEPT—51**SYSTEM NAME:**

Standards of Conduct File.

SYSTEM LOCATION:

Headquarters.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

HUD employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Financial statements; statements of employment.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

E.O. 11222, Sec. 305-402, 5 CFR 735.401.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See Routine Uses paragraphs in prefatory statements. Other routine uses to the Department of Justice, the Federal Bureau of Investigation, and the Internal Revenue Service for purposes of investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.**STORAGE:**

File folders and standard forms.

RETRIEVABILITY:

Name.

SAFEGUARDS:

Locked file cabinets.

RETENTION AND DISPOSAL:

Files are active and kept up-to-date, partly current and partly historical.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant General Counsel for Finance and Administrative Law Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

NOTIFICATION PROCEDURE:

For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the headquarters location, in accordance with 24 CFR Part 16. This location is given in Appendix A.

RECORD ACCESS PROCEDURES:

The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 126. If additional information or assistance is required, contact the Privacy Act Officer at Headquarters. This location is given in Appendix A.

CONTESTING RECORD PROCEDURES:

The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents or records, the Privacy Act Officer at the headquarters location. This location is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

RECORD SOURCE CATEGORIES:

Subject individuals.

HUD/DEPT—52**SYSTEM NAME:**

Privacy Act Requesters.

SYSTEM LOCATION:

Headquarters and field offices. For a complete listing of these offices, with addresses, see Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals inquiring about existence of records about them, and requesting access to and correction of such records under provisions of the Privacy Act.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personal identification of requester, nature of request, and disposition of the request by the Department.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Privacy Act of 1974 (5 U.S.C. 552(a)(c)).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See Routine Uses paragraphs in prefatory statement. Other routine uses: none.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**STORAGE:**

In file holders.

RETRIEVABILITY:

Filed by case number and name of individual.

SAFEGUARDS:

Records maintained in locked and lockable file cabinets with access limited to authorized personnel.

RETENTION AND DISPOSAL:

Records are primarily active. Inactive files are normally disposed of after a one-year period.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Organization and Management Information, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

NOTIFICATION PROCEDURE:

For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

RECORD ACCESS PROCEDURES:

The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

CONTESTING RECORD PROCEDURES:

The Department's rules for contesting the contents of records and appealing initial denials by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) In relation to contesting contents or records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General

Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

RECORD SOURCE CATEGORIES:

Subject individuals.

HUD-DEPT—53**SYSTEM NAME:**

Consumer Complaint Handling System.

SYSTEM LOCATION:

Headquarters and Field Offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any member of the public who registers a complaint with HUD, including but not limited to: Community Development Block Grant (CDBG) recipients or individuals who use facilities or services supported by CDBG money; mortgagors/mortgagees having or seeking FHA-insured mortgages; tenants in FHA/insured projects; tenants in HUD-supported Low Rent Housing Projects; employees on HUD-assisted or insured construction projects and their unions; and public interest groups. Excluded are complaints from HUD employees arising out of the administration of internal HUD policies or procedures.

CATEGORIES OF RECORDS IN THE SYSTEM:

Complaints expressing dissatisfaction with a Departmental program, policy, or service. Name of complainant and action dates.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Housing and Community Development Act of 1974, P.L. 93-383.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See Routine Uses paragraphs in prefatory statement. Other routine uses: the following may receive individual records to assist in the resolution of a complaint—State and local officials; public and private counseling agencies; building associations; developers; financial institutions holding HUD-insured mortgages; Federal, State and local Consumer Affairs offices; Consumer Protection agencies; State and local real estate and planning Commissions.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**STORAGE:**

In file folders, cassettes, computerized tape, disc, and drum.

RETRIEVABILITY:

Control number, date of receipt, name of complainant, date of complaint, date of final reply, nature of complaints HUD program category, assigned due date, date of interim reply, date of last update on the System, and HUD Office to which complaint was referred for action.

SAFEGUARDS:

Access to the automated System is accomplished by passwords and code identification codes limited in use to authorized personnel. Cassettes and computer/data files will be stored in computer facilities which are secured and accessible only to authorized personnel. File folders of pending and closed cases to be stored in lockable file cabinets.

RETENTION AND DISPOSAL:

Manual file is closed upon final response and purged after one year. Automated records are maintained for five years. Complaints pending response will remain open and active until final response is sent. Obsolete records will be disposed of in accordance with HUD Handbook.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Consumer Complaints, Department of HUD, 451 Seventh Street, S.W., Washington, D.C. 20410.

NOTIFICATION PROCEDURE:

For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

RECORD ACCESS PROCEDURES:

The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

CONTESTING RECORD PROCEDURES:

The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and

Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

RECORD SOURCE CATEGORIES:

Letters of complaints from individuals, telephone calls of complaints from individuals, and walk-in complaints from individuals, and consumer oriented agencies on behalf of individuals.

HUD/DEPT-54**SYSTEM NAME:**

Parking Permit Application Files.

SYSTEM LOCATION:

Headquarters and field offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

HUD employees and other individuals who made application to park in HUD-controlled space.

CATEGORIES OF RECORDS IN THE SYSTEM:

Application forms that contain information about the vehicles owned by and addresses of the principal applicant and carpool members.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Federal Property and Administrative Procedures Act of 1949 (P.L. 81-152, Sec. 201), 41 U.S.C. 231.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See Routine Uses paragraphs in prefatory statement. Other Routine Uses: To parking management company—for billing purposes.

STORAGE:

8 inch by 5 inch card file.

RETRIEVABILITY:

Name and permit number.

SAFEGUARDS:

Lockable file cabinets.

RETENTION AND DISPOSAL:

(1) For individuals issued permits, as long as permits are valid; (2) for individuals on the waiting list, approximately 2 years.

SYSTEM MANAGER(S) AND ADDRESS:

Administrative Officer, Office of Administrative Services, AS, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410.

NOTIFICATION PROCEDURE:

For information, assistance, or inquiry about existence of records, contact the Privacy Act Office at the appropriate location, in accordance with 24 CFR Part

16. A list of all locations is given in Appendix A.

RECORD ACCESS PROCEDURES:

The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations given in Appendix A.

CONTESTING RECORD PROCEDURES:

The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

RECORD SOURCE CATEGORIES:

Parking Permit Applicants.

HUD/DEPT-55**SYSTEM NAME:**

Executive Personnel Files.

SYSTEM LOCATION:

Headquarters Office.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Executive employees; namely, executive levels, members of the Senior Executive Service, supergrades, schedule C's, experts and consultants, field office directors, and high potential senior level employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Data pertaining to experience, training, education, achievements, personal activities, potential and career objectives, and evaluation of these skills and attributes.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sections 401-415 Civil Service Reform Act of 1978, P.L. 95-454.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See routine uses paragraph in prefatory statement. Other routine uses: To former employers, education, institutions, and references for information verification.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**STORAGE:**

Paper records in file cabinets.

RETRIEVABILITY:

Name of applicant or HUD organization.

SAFEGUARDS:

Records are maintained in lockable file cabinets with access limited to authorized personnel.

RETENTION AND DISPOSAL:

Retained during active status and then disposed, usually 3 years.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Executive Resources Division, Office of Personnel, Department of Housing and Urban Development, 451 Seventh Street S.W., Washington, D.C. 20410.

NOTIFICATION PROCEDURE:

For information, assistance, or inquiry about the existence of records, contact the Privacy Act officer at the headquarters location, in accordance with 24 CFR Part 16. This location is given in appendix A.

RECORD ACCESS PROCEDURES:

The Department's rules for providing access to records to the individuals concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act officer at the headquarters location. This location is given in appendix A.

CONTESTING RECORD PROCEDURES:

The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act officer at the headquarters location. This location is given in appendix A. (ii) In relation to appeals of initial denials, the HUD departmental privacy appeals officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street S.W., Washington, D.C. 20410.

RECORD SOURCE CATEGORIES:

Subject individuals, former employers and references.

HUD/DEPT—56**SYSTEM NAME:**

Telephone Numbers of HUD Officials.

SYSTEM LOCATION:

Headquarters office.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM: HUD SENIOR STAFF OFFICIALS.**CATEGORIES OF RECORDS IN THE SYSTEM:**

Name, title, home and office phone numbers.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 7(d) Department of HUD Act (42 U.S.C. 3535(d)).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See routine uses paragraph in prefatory statement. Other routine uses: Executive Office of the President for identification and communication with key staff.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**STORAGE:**

Bookcase of Director, Office of Executive Secretariat.

RETRIEVABILITY:

Office, name, and title.

SAFEGUARDS:

Records are maintained in lockable room with access limited to authorized personnel.

RETENTION AND DISPOSAL:

Records are revised as personnel and telephone numbers change. When records are revised, older records are destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Secretary's Correspondence Unit, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

NOTIFICATION PROCEDURES:

For information, assistance, or inquiry about the existence of records contact the Privacy Act officer at the headquarters location, in accordance with 24 CFR Part 16. This location is given in appendix A.

RECORD ACCESS PROCEDURES:

The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act officer at the headquarters location. This location is given in appendix A.

CONTESTING RECORD PROCEDURES:

The Departments' rules for contesting the contents of records and appealing initial denials, by the individuals

concerned, appear in 24 CFR Part 16. If additional information or assistance is needed it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act officer at the headquarters location. This location is given in appendix A; (ii) in relation to appeals of initial denials, the HUD departmental privacy appeals officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

RECORD SOURCE CATEGORIES:

Subject individuals.

HUD/DEPT—58**SYSTEM NAME:**

HUD Child Care Center Files.

SYSTEM LOCATION:

Headquarters Office.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Children enrolled in the Center and their parents, staff of the Center, others who may be involved in special programs of the Center, and names of donors, applicants to the Center, and former enrollees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information on the child, including parents' names and addresses and income; health records of children and staff; information work of staff including work history; current evaluation, and other work-related information; evaluation of the children's progress in the Center; names of donors and amounts of donations to the Center.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Housing Authorization Act of 1976, P.L. 94-375.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See Routine Uses in prefatory statement. Other routine uses: none.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**STORAGE:**

Paper records in file cabinets.

RETRIEVABILITY:

By name of child or name of staff member.

SAFEGUARDS:

Records will be maintained in lockable file cabinets with access

limited to authorized personnel of the Center.

RETENTION AND DISPOSAL:

Records of children who leave will be stored for one year; records of staff who leave will be stored for three years. At the expiration of those periods, records will be disposed of.

SYSTEM MANAGER(S) AND ADDRESS:

Director, HUD Child Care Center, Department of HUD, 451 Seventh Street SW., Washington, D.C. 20410.

NOTIFICATION PROCEDURE:

For information, assistance or inquiry about the existence of records, contact the Privacy Act Officer at the Headquarters location, in accordance with 24 CFR Part 16. This location is given in Appendix A.

RECORD ACCESS PROCEDURES:

The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the Headquarters location. This location is given in Appendix A.

CONTESTING RECORD PROCEDURES:

The Department's rules for contesting the contents of records appealing initial denials, by the individuals concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the Headquarters location. This location is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

RECORD SOURCE CATEGORIES:

Applicants; current and formerly enrolled children and their parents; current and former staff members; doctors and former institutions attended by the children.

HUD/DEPT-60

SYSTEM NAME:

Employee Emergency Reference File.

SYSTEM LOCATION:

Headquarters and field offices. For a complete listing of these offices, with addresses, see Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

HUD employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, address, home phone number, social security account number, and personal and medical references to be used in an emergency.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To personal and medical sources identified by subject—for providing HUD with assistance in the event of an emergency affecting the subject.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

In file folders and card boxes.

RETRIEVABILITY:

Subjects name.

SAFEGUARDS:

Records are kept in lockable file cabinets with access limited to authorized personnel.

RETENTION AND DISPOSAL:

Records are retained during active status and disposed of within one year of subject's departure from the department.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Personnel Systems and Payroll Division, Office of Personnel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

NOTIFICATION PROCEDURE:

For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

RECORD ACCESS PROCEDURES:

The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

CONTESTING RECORD PROCEDURES:

The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act

Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Department at Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

RECORD SOURCE CATEGORIES:

Subject individuals.

HUD/DEPT-61

SYSTEM NAME:

Mobile Home Standards Complaint, Production and Compliance Analysis System.

SYSTEM LOCATION:

Headquarters.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Consumers who have registered complaints regarding mobile homes.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, telephone number of purchaser, information on mobile home purchased (make, model, serial number, date of purchase, location, dealer's name, and complaints or problems).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See routine uses paragraphs of prefatory statement. Other routine uses: to HUD-approved State Administrative Agencies who participate in enforcement of the Federal Mobile Home Construction and Safety Standards Program—for assisting in the enforcement of the Mobile Home Construction and Safety Standards Act, and handling of consumer complaints.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

In file folders, card boxes, and on magnetic tape/dis/drums.

RETRIEVABILITY:

By purchaser name; by mobile home make, model, serial number, date of purchase, location, dealer's name, complaint or problem.

SAFEGUARDS:

Manual records are kept in lockable file cabinets; computer records are maintained in secured facilities. Access

to either type of record is limited to authorized personnel.

RETENTION AND DISPOSAL:

Records are retained during active status, a period not to exceed five years. Following the active period, hardcopy records may be disposed of or retired to a Federal Records Center. Automated data will be erased or retired to storage.

SYSTEM MANAGER AND ADDRESS:

Director, Office of Mobile Home Standards, NVACP, Department of HUD, 451 Seventh Street, SW., Washington, D.C. 20410.

NOTIFICATION PROCEDURE:

For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the Headquarters location in accordance with 24 CFR Part 16. This location is given in Appendix A.

RECORD ACCESS PROCEDURES:

The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the Headquarters location. This location is given in Appendix A.

CONTESTING RECORD PROCEDURES:

The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the Headquarters location. This location is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410.

RECORD SOURCE CATEGORIES:

Subject individuals who have registered complaints.

HUD/DEPT-62

SYSTEM NAME:

Claims Collection Records.

SYSTEM LOCATION:

Headquarters and field offices. For a complete listing of these offices with addresses, see Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Mortgagors; mortgagees; grant/project and loan applicants and recipients; HUD personnel; vendors; brokers; bidders; managers; tenants; builders; developers,

contractors, and appraisers; employees on HUD/FHA projects; investors; subjects of audit; closing agents; former mortgagors and purchasers of HUD-owned properties.

CATEGORIES OF RECORDS IN THE SYSTEM:

Lease and loan collection register; schedules of payments receivable and received; premiums due; claim files; fee billing statements; escrow and Certificates of Deposit files; cash flow and budget control files; earnest money register; purchase order log; imprest fund; area managers' accounting records; restitution, maintenance, and market expenses; bills of lading; vouchers; invoices; receipts; mortgagors, builder's and contractor's financial statements, records and audit reports; deposit and receipt records; disbursements and cancelled checks; repurchases of mortgages; adjustments from recoveries, defaults, acquired home property records; sales closing papers; statements of accounts; tax records; certifications and applications for assistance; and notice of court action.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Federal Claims Collection Act of 1966 (Section 1, Pub. L. 89-508).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See Routine Uses paragraphs in prefatory statement. Other routine uses: Justice Department—for prosecution of fraud revealed in the course of claims collection efforts, and for the institution of foreclosure or other proceedings to effect collection of claims; FBI—for investigation of possible fraud revealed in the course of claims collection efforts; General Accounting Office—for the institution of proceedings to effect collection of claims; other Federal Agencies—to facilitate collection of claims against Federal employees; Office of Personnel Management—for offsetting retirement payments; and to commercial credit bureaus—to facilitate claims collection consistent with Federal Claims Collection Standards 4 CFR Section 102.4.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Desks; safes; locked file cabinets.

RETRIEVABILITY:

Name, Social Security Number, Project Name and Number, and Contract Number.

SAFEGUARDS:

Locked files; limited access by authorized individuals.

RETENTION AND DISPOSAL:

GSA schedules of retention and disposal; destruction one year after statute of limitation expiration.

SYSTEM MANAGER AND ADDRESS:

Department Claims Officer, Office of Finance and Accounting, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

NOTIFICATION PROCEDURE:

For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

RECORD ACCESS PROCEDURES:

The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

CONTESTING RECORD PROCEDURES:

The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

RECORD SOURCE CATEGORIES:

Subject individuals; other individuals; current or previous employers; credit bureaus; financial institutions; private corporations or firms doing business with HUD; Federal and non-Federal government agencies; HUD personnel.

HUD/DEPT-63

SYSTEM NAME:

Secretary's Correspondence Control System.

SYSTEM LOCATION:

Headquarters.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(a) Individuals who correspond with the Secretary or the Under Secretary. (b) Individuals whose correspondence has been referred by the White House, other Executive agencies, or members of Congress to the Secretary or Under Secretary for response.

CATEGORIES OF RECORDS IN THE SYSTEM:

Correspondence identification (correspondent's name, address, organization, title, control number, date of letter, subject); status or response within the Department (office assigned, date due, current disposition); may include original correspondence, Department's response, referral letters, name and identification of person referring the correspondence, and copies of any enclosures.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 7(d) of the Department of Housing and Urban Development Act of 1965, Pub. L. 89-174.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See Routine Uses paragraphs or prefatory statement. Other routine uses: None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**STORAGE:**

In file folders, on microfiche and on magnetic disc/tape.

RETRIEVABILITY:

Name, control number, name of person referring correspondence, return address on letters, organization name, title, date of letter, subject of letter, office assigned, date due, current disposition.

SAFEGUARDS:

Manual files and microfiche are kept in folders and accessed only by authorized personnel, computer records are maintained in a secure area with access restricted to authorized personnel.

RETENTION AND DISPOSAL:

All files are maintained in the Executive Secretariat for three years and then are retained/disposed of in accordance with HUD Handbook 225.6, Schedule 62, dated March, 1976. All computerized information is maintained on magnetic disc for one year, then is copied to magnetic tape and stored in a secure location.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Secretary's Correspondence Unit
Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

NOTIFICATION PROCEDURE:

For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the Headquarters location, in accordance with 24 CFR Part 16. This location is given in Appendix A.

RECORD ACCESS PROCEDURES:

The Department's rules for providing access to records to the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the Headquarters location. This location is given in Appendix A.

CONTESTING RECORD PROCEDURES:

The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) In relation to contesting contents of records, the Privacy Act Officer at the Headquarters location. This location is given in Appendix A, (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

RECORD SOURCE CATEGORIES:

Subject, referral source, Department employees involved in processing the correspondence.

HUD/DEPT-64**SYSTEM NAME:**

Congregate Housing Services Program Data Files.

SYSTEM LOCATION:

Headquarters and Offices of HUD Contractor.

CATEGORIES OF INDIVIDUALS COVERED BY SYSTEM:

Congregate Housing Services Program (CHSP) participants and selected applicants and non-applicants residing in grantee public housing and Section 202 (elderly) projects; and selected individuals residing in non-grantee public housing and Section 202 projects.

CATEGORIES OF RECORDS IN THE SYSTEM:

The files will contain the following records on CHSP participants: Name, project, file number, race/ethnic background, birthdate, sex, marital status, residential history and current

living arrangement, number of minors residing, number of children/relatives nearby and family relationships, education, socioeconomic status (occupation/income), total housing expense, characteristics (special features) of the Housing unit, size of unit, sources of income and medical coverage, handicap type, disability type, medical status (recurrent/chronic medical problems) and hospitalization in past year, scores on activities of daily living tests, level of informal service supports (family, friends, etc.), current and previous services received by program type (formal services), dates of service receipt, service needs assessment, morale scale and satisfaction with services and residential arrangements, mental status (primarily, disorientation for elderly and cognitive functioning for mentally retarded), emotional status, social interaction assessment (participation in formal and informal activities, and interpersonal skills), cost and usage of CHSP and other services, project admission date, CHSP application date, physical functioning/health status when entered project, current physical functioning/health status, physical functioning/health status at entry to CHSP, Professional Assessment Committee (PAC) determinations and recommended services, physical functioning/health status when left CHSP, date moved out of project, physical functioning/health status when moved out of project, new address/telephone (or contact person), name/telephone of physician, legal guardian, or family member.

The files will contain the following records on CHSP applicants who were not selected as participants: Name, project, file number, race/ethnic background, birthdate, sex, marital status, resident history and current living arrangement, number of minors residing, number of children/relatives nearby and family relationships, education, socioeconomic status (occupation/income), total housing expense, characteristics (special features) of the housing unit, size of unit, sources of income and medical coverage, handicap type, disability type, medical status (recurrent/chronic medical problems) and hospitalization in past year, scores on activities of daily living tests, level of informal service supports (family, friends, etc.), current and previous services received by program type (formal services), dates of service receipt, service needs assessment, morale scale and satisfaction with services and residential arrangements, mental status (primarily, disorientation for elderly and

cognitive functioning for mentally retarded), emotional status, social interaction assessment (participation in formal and informal activities, and interpersonal skills), cost and usage of services, project admission date, CHSP application date, physical functioning/health status when entered project, physical functioning/health status when applied to CHSP, current physical functioning/health status, PAC determinations, date moved out of project, physical functioning/health status when moved out of project, new address/telephone (or contact person), name/telephone of physician, legal guardian, or family member.

The files will contain the following records on residents of CHSP projects who did not apply to the program and residents of non-CHSP projects: name, project, file number, race/ethnic background, birthdate, sex, marital status, residential history and current living arrangement, number of minors residing, number of children/relatives nearby and family relationships, education, socioeconomic status (occupation/income), total housing expense, characteristics (special features) of the housing unit, size of unit, sources of income and medical coverage, handicap type, disability type, medical status (recurrent/chronic medical problems) and hospitalization in past year, scores on activities of daily living tests, level of informal service supports (family, friends, etc.), current and previous services received by program type (formal services), dates of service receipt, service needs assessment, morale scale and satisfaction with services and residential arrangements, mental status (primarily, disorientation for elderly and cognitive functioning for mentally retarded), emotional status, social interaction assessment (participation in formal and informal activities, and interpersonal skills), cost and usage of services, project admission date, physical functioning/health status when entered project, current physical functioning/health status, date moved out of project, physical functioning/health status when moved out of project, new address/telephone (or contact person), name/telephone of physician, legal guardian, or family member.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title IV, Housing and Community Development Amendments of 1978 (Congregate Housing Services Act of 1978).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To HUD Contractor for conducting the evaluation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

In file folders and on magnetic tape/disc/drum.

RETRIEVABILITY:

Name, project, file number, race/ethnic background, birth date, sex, marital status, residential history and current living arrangement, number of minors residing, number of children/relatives nearby and family relationships, education, socioeconomic status (occupation/income), total housing expense, characteristics (special features) of the housing unit, size of unit, sources of income and medical coverage, handicap type, disability type, medical status (recurrent/chronic medical problems) and hospitalization in past year, scores on activities of daily living tests, level of informal service supports (family, friends, etc.), current and previous services received by program type (formal services), dates of service receipt, service needs assessment, morale scale and satisfaction with services and residential arrangements, mental status, emotional status, social interaction assessment (participation in formal and informal activities, and interpersonal skills), cost and usage of CHSP and other services, project admission date, CHSP application date, physical functioning/health status when entered project, current physical functioning/health status, physical functioning/health status at entry to CHSP, PAC determinations and recommended services, physical functioning/health status when left CHSP, date moved out of project, physical functioning/health status when moved out of project, new address/telephone (or contact person), name/telephone of physician, legal guardian, or family member.

SAFEGUARDS:

Manual files will be kept in lockable cabinets in a secured area, computer records will be maintained in a separate secured area. Access to either type of record will be limited to authorized personnel.

RETENTION AND DISPOSAL:

Manual and automated records are retained in accordance with officially approved mandatory standards

contained in HUD handbooks 2225.6 and 2228.2.

SYSTEM MANAGER AND ADDRESS:

Director, Office of Consumer Affairs, NVACP, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410.

NOTIFICATION PROCEDURE:

For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the Headquarters location, in accordance with 24 CFR Part 16. This location is given in Appendix A.

RECORD ACCESS PROCEDURES:

The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at Headquarters. This location is given in Appendix A.

CONTESTING RECORD PROCEDURES:

The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) In relation to contesting contents of records, the Privacy Act Officer at the Headquarters location. This location is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD's Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

RECORD SOURCE CATEGORIES:

Subject individuals, Professional Assessment Committee, Project Managers.

HUD/DEPT-65

SYSTEM NAME:

IDEAS Program Case Files.

SYSTEM LOCATION:

Headquarters and Field Offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Federal employees who submit Ideas for improving Departmental efficiency and effectiveness.

CATEGORIES OF RECORDS IN THE SYSTEM:

Idea subject, suggester name, Idea number, position title of suggester, title of organization to which suggester is assigned, location of suggester's organization, suggester's room number, suggester's phone number, statement of organization responsible for

implementing ideas, statement of current use, statement of anonymity, statement of cash award waiver, agreement to waive further rights, description of Idea, Social Security Number, disposition of Idea, cash award amount.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Government Employees Incentive Awards Act (45 U.S.C. 5).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To news media to publicize awards; to other Government agencies for evaluation and possible adoption; in the case of cash awards, to Treasury to issue check; to printing firms to produce award certificates.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

In file folders and on magnetic media.

RETRIEVABILITY:

Subject, name, number, originating organization, evaluating organization, disposition.

SAFEGUARDS:

Paper files are kept in lockable cabinets in secured areas. Magnetic files will be maintained in a separate secured area. Access to either type of file is limited to authorized personnel.

RETENTION AND DISPOSAL:

Manual and automated records are retained in accordance with officially approved mandatory standards contained in HUD Handbooks 2225.6 and 2228.2.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Management Systems and Organization Division, Office of Organization and Management Information, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

NOTIFICATION PROCEDURE:

For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

RECORD ACCESS PROCEDURES:

The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

CONTESTING RECORD PROCEDURES:

The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of record, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A, (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

RECORD SOURCE CATEGORIES:

Suggesting individual, processing organization, evaluating organization.

HUD/DEPT-66

SYSTEM NAME:

Grievance Records.

SYSTEM LOCATION:

Headquarters and field offices. For a complete list of these offices, with addresses, see Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current or former HUD employees who have submitted grievances in accordance with part 771 of OPM regulations (5 CFR 771), HUD regulations, or a negotiated procedure.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains records relating to grievances filed by agency employees. These case files contain all documents related to the grievance, including statements of witnesses, reports of interviews and hearings, examiner's findings and recommendations, a copy of the original and final decision, and related correspondence and exhibits. This system includes files and records of internal grievance and arbitration systems that HUD may establish through negotiations with recognized labor organizations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 1302, 3301, 3302, E.O. 10577, 3 CFR 1954-1958 Comp., p. 218, EO 10987, 3 CFR 1959-1963 Comp., p. 519.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used: a. To disclose pertinent information to the appropriate Federal, State, or local agency responsible for investigating,

prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.

b. To disclose information to any source from which additional information is requested in the course of processing a grievance, to the extent necessary to identify the individual, inform the source of the purpose(s) of the request and identify the type of information requested.

c. To disclose information to a Federal agency in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the conducting of a security or suitability investigation of an individual, the classifying of jobs, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to requesting the agency's decision on the matter.

d. To provide information to a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of that individual.

e. To disclose information to another Federal agency or to a court when the Government is party to a judicial proceeding before the court.

f. By the National Archives and Records Service (General Services Administration) in records management inspections conducted under authority of 44 U.S.C. 2004 and 2908.

g. By the agency maintaining the records or the OPM in the production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related work force studies. While published statistics and studies do not contain individual identifiers, in some instances the selection of elements of data included in the study may be structured in such a way as to make the data individually identifiable by inference.

h. To disclose information to officials of the Merit Systems Protection Board, including the office of the Special Counsel, the Federal Labor Relations Authority and its General Counsel, or the Equal Employment Opportunity Commission when requested in performance of their authorized duties.

i. To disclose in response to a request for discovery or for appearance of a witness, information that is relevant to the subject matter involved in a pending judicial or administrative proceeding.

j. To provide information to officials of labor organizations recognized under the Civil Service Reform Act when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting work conditions.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

These records are maintained in file folders.

RETRIVABILITY:

These records are retrieved by the names of the individuals on whom they are maintained.

SAFEGUARDS:

These records are maintained in lockable metal filing cabinets to which only authorized personnel have access.

RETENTION AND DISPOSAL:

These records are disposed of 3 years after closing of the case. Disposal is by shredding or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Employee Relations and Equal Opportunity Division, Office of Personnel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

NOTIFICATION PROCEDURE:

For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

RECORD ACCESS PROCEDURES:

It is required that individuals submitting grievances be provided a copy of the record under the grievance process. However, after the action has been closed an individual may request access to the official copy of the grievance file.

The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Officer at the appropriate location. A list of all locations is given in Appendix A.

CONTESTING RECORD PROCEDURES:

Review of requests from individuals seeking amendment of their records which have been the subject of a judicial or quasi-judicial action will be limited in scope. Review of amendment requests of these records will be restricted to determining if the record accurately documents the action of the

agency ruling on the case, and will not include a review of the merits of the action, determination, or finding. The Department's rules for contesting the contents of records and appealing initial denials by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

RECORD SOURCE CATEGORIES:

Information in this system of records is provided: a. By the individual on whom the record is maintained.

b. By testimony of witnesses.

c. By agency officials.

d. From related correspondence from organizations or persons.

HUD/DEPT-67

SYSTEM NAME:

Employee Counseling and Occupational Health Records.

SYSTEM LOCATION:

Headquarters and field offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees seeking assistance with alcoholism, drugs or emotional problems.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, duty assignment, service to which the employee is referred, request, status memoranda from referral services and occasionally diagnosis.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Public Law 79-658, Employee Health Act, 1946, Public Law 89-183, Mental Health Act, 1963, Public Law 91-616, Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act, 1970, Public Law 92-225, Drug Abuse Office and Treatment Act, 1972.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To referral services to document referral, status.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Files are stored in a lockable cabinet in a secured area.

RETRIVABILITY:

Name, service to which employee is referred.

SAFEGUARDS:

Files will be kept in locked cabinets. Access will be strictly controlled, and limited to employees who must have access in order to perform their duties.

RETENTION AND DISPOSAL:

These records are disposed of in accordance with the mandatory General Records Schedules contained in HUD Handbook 2228.2.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Employee Relations and EEO Division, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

NOTIFICATION PROCEDURE:

For information, assistance, or inquiry about existence of records, contact the Privacy Act Office at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

RECORD ACCESS PROCEDURES:

The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

CONTESTING RECORD PROCEDURES:

The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A. (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

RECORD SOURCE CATEGORIES:

Subject employee, referral service.

HUD/DEPT-68**SYSTEM NAME:**

HUD Government Motor Vehicle Operators Records.

SYSTEM LOCATION:

Headquarters and field offices. For a complete listing of these offices with addresses, see Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

HUD employees who are authorized to operate Government Motor Vehicles on official business.

CATEGORIES OF RECORDS IN THE SYSTEM:

Standard Form 47, Physical Fitness Inquiry for Motor Vehicle Operators and HUD Form 87, Drivers Past Performance Record. These forms include name, Social Security Number, physical fitness data, and driving performance information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Federal Property and Administrative Services Act of 1949, 41 U.S.C. 231, Public Law 81-152, Sec. 201.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To Department of Transportation for verification with National Driver Register.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**STORAGE:**

Desks; safes; locked file cabinets.

RETRIEVABILITY:

Name, Social Security Number.

SAFEGUARDS:

Locked files; limited access by authorized individuals

RETENTION AND DISPOSAL:

Records are retained and disposed of in accordance with officially approved mandatory standards contained in HUD Handbooks 2225.6 and 2282.2.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Facilities Operations Division, ASB, Department of Housing and Urban Development, 451 Seventh Street S.W., Washington, D.C. 20410.

NOTIFICATION PROCEDURE:

For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

RECORD ACCESS PROCEDURES:

The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

CONTESTING RECORD PROCEDURES:

The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed regarding contesting record contents, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A. If additional information or assistance is needed in relation to appeals, contact the HUD Department Privacy Appeals Officer, Officer of General Counsel, Department of Housing and Urban Development, 451 Seventh Street S.W., Washington, D.C. 20410.

RECORD SOURCE CATEGORIES:

Subject individuals.

HUD/DEPT-69**SYSTEM NAME:**

Intergovernmental Personnel Act Assignment Records.

SYSTEM LOCATION:

Headquarters and field offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current or former employees of State or local governments, educational institutions, Indian tribal governments, or other eligible organizations who are presently on or have completed a detail with the Department of Housing and Urban Development (HUD) under the provisions of the Intergovernmental Personnel Act (IPA).

CATEGORIES OF RECORDS IN THE SYSTEM:

These records are comprised of a copy of the assignee's IPA agreement between HUD and a State or local government, educational institution, Indian tribal government, or other eligible organization; resume, personal qualifications statement, and background information about the assignee(s); records of interviews with assignee(s) and any required assignment evaluations and reports; and any documents which affect the status of the assignment such as extensions, amendments and terminations of contracts. The following data will be included in the records: Name of employee, social security number, date of birth, home address, agency

employed by, job title, name and title of immediate supervisor, office telephone number, annual salary, date employed by agency, position to which assignment will be made, type of assignment, and period of assignment.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Intergovernmental Personnel Act of 1970 (84 Stat. 1909), 5 U.S.C. 3371-3376, and E.O. 11589.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To the Merit Systems Protection Board, Federal Labor Relations Authority, and the Equal Employment Opportunity Commission when requested in performance of authorized duties. To Office of Personnel Management for personnel inspections of the Department.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**STORAGE:**

Paper records in file folders.

RETRIEVABILITY:

Individual name.

SAGEGUARDS:

Files are kept in a secured area, with access limited to authorized personnel.

RETENTION AND DISPOSAL:

Records are retained in accordance with officially approved mandatory standards contained in HUD Handbooks 2225.6 and 2282.2.

SYSTEM MANAGER(S), AND ADDRESS:

Director, Employment Planning and Standards Division, Office of Personnel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

NOTIFICATION PROCEDURE:

For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

RECORD ACCESS PROCEDURES:

The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

CONTESTING RECORD PROCEDURES:

The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A, (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

RECORD SOURCE CATEGORIES:

Participating individual; individual's permanent employing organization; Department personnel files and records.

HUD/DEPT-72**SYSTEM NAME:**

Congressional Correspondence Files (Communication Control System)

SYSTEM LOCATION:

Headquarters and some field offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(a) Individuals who correspond with the Secretary, Under Secretary, Assistant Secretary or Field Officials, (b) Individuals whose correspondence has been referred by the White House, other Executive agencies, or Members of Congress to the Secretary, Under Secretary, Assistant Secretary or Field Officials for responses.

CATEGORIES OF RECORDS IN THE SYSTEM:

Correspondence identification (Member of Congress name, correspondent's name, address, state, district, organization, title, control number, return address, date of letter, subject); status of response within the Department (office assigned, date due, current disposition); may include original correspondence, Department's response, referral letters, name and identification of person referring the correspondence, and copies of any enclosures.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 7(d) of the Department of Housing and Urban Development Act of 1965, P.L. 89-174.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.**STORAGE:**

In file folders and on magnetic disc/tape.

RETRIEVABILITY:

State, district, control number, name of Member of Congress, name of person referring correspondence, date of letter, subject of letter, office assigned, date due, current disposition.

SAFEGUARDS:

Manual files are kept in folders in lockable file cabinets and accessed only by authorized personnel, computer records are maintained in a secure area with access restricted to authorized personnel.

RETENTION AND DISPOSAL:

All manual files are maintained for one year and then are retained/disposed of in accordance with HUD handbook 2225.6, HUD Records Schedules, Schedule 54.

All computerized information is maintained on magnetic disc for two years, then is copied to magnetic tape and stored in a secure location.

SYSTEM MANAGER AND ADDRESS:

Administrative Staff Assistant, Office of Legislation and Congressional Relations, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

NOTIFICATION PROCEDURE:

For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

RECORD ACCESS PROCEDURES:

The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

CONTESTING RECORD PROCEDURES:

The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed in relation to contesting the contents of records, it may be obtained by contacting the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A. If additional information or assistance is needed in relation to appeals of initial

denials, it may be obtained by contacting the HUD Department Appeals Officer, Office of General Counsel, Department of Housing and Urban Development 451 Seventh Street, S.W., Washington, D.C. 20410.

RECORD SOURCE CATEGORIES:

Subject, referral source, Department employees involved in processing the correspondence.

HUD/DEPT-73**SYSTEM NAME:**

Government Property on Personal Charge Files.

SYSTEM LOCATION:

Headquarters and field offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current or former HUD employees to whom HUD has issued government property on personal charge.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records are comprised of a copy of each receipt for government property on a charge, and a property receipt control register. The following data will be included in the records: Name of employee, office telephone number, room number and location, organization symbol, custody-receipt and property pass number, description of property, certificate of receipt and responsibility, dates of issuance, return due, follow-up, extension, and return and signature of chargeable employee.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Federal Property and Administrative Services Act of 1949, 40 U.S.C. Sec. 483.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See Routine Uses paragraphs in prefatory statement. Other routine uses: None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.**STORAGE:**

Paper records will be stored in card files and file folders.

RETRIEVABILITY:

Individual name.

SAFEGUARDS:

Files are kept in a secured cabinet, with access limited to authorized personnel.

RETENTION OF DISPOSAL:

These records are disposed of in accordance with the Mandatory General Records Schedules contained in HUD Handbook 2228.2, General Records Schedules.

SYSTEM MANAGER AND ADDRESS:

Chief, Property and Supply Branch, Facilities Operations Division, Office of Administrative Services, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

NOTIFICATION PROCEDURES:

For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

RECORD ACCESS PROCEDURES:

The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

CONTESTING RECORD PROCEDURES:

The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed in relation to contesting the contents of records, it may be obtained by contacting the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A. If additional information or assistance is needed in relation to appeals of initial denials, it may be obtained by contacting the HUD Department Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

RECORD SOURCE CATEGORIES:

Individuals to whom property is charged.

HUD/DEPT-74**SYSTEM NAME:**

Executive Emergency Cascade Alerting System.

SYSTEM LOCATION:

Headquarters and field offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current HUD employees who have been designated as executive emergency team members

CATEGORIES OR RECORDS IN THE SYSTEM:

These records are comprised of the employee's name, office and home telephone numbers, only.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

These records are maintained under the authority of Executive Order No. 11490.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**STORAGE:**

Paper records in file folders.

RETRIEVABILITY:

Individual name.

SAFEGUARDS:

Distribution of team lists and access to team lists is restricted to authorized personnel.

RETENTION AND DISPOSAL:

These records are retained and disposed of in accordance with officially approved mandatory standards contained in HUD Handbooks 2225.6 [HUD Records Schedules] and 2228.2 [General Records Schedules].

SYSTEM MANAGER AND ADDRESS:

Director, Emergency Preparedness Staff, Office of Administrative Services, Department of Housing and Urban Development 451, Seventh Street, S.W. Washington, D.C. 20410

NOTIFICATION PROCEDURE:

For information assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

RECORD ACCESS PROCEDURES:

The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

CONTESTING RECORD PROCEDURES:

The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed in relation to contesting the contents of records, it may be obtained by contacting the Privacy Act Officer at

the appropriate location. A list of all locations is given in Appendix A. If additional information or assistance is needed in relation to appeals of initial denials, it may be obtained by contacting the HUD Departmental Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

RECORD SOURCE CATEGORIES:

Subject individuals.

HUD/DEPT-75**SYSTEM NAME:**

Priority Consideration/Special Reassignment Files.

SYSTEM LOCATION:

Headquarters and field offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current or former HUD employees who have been demoted without personal cause; who did not receive proper consideration in an earlier merit staffing action; or who are entitled to grade retention due to a demotion through no personal cause.

CATEGORIES OR RECORDS IN THE SYSTEM:

These files are comprised of copies of the eligible's Personal Qualifications Statement (SF-171); the eligible's current performance evaluation, and where appropriate, an appraisal of potential; certification of the eligible for priority consideration/special reassignment; correspondence both from and to the eligible concerning priority consideration/special reassignment; documentation relating to non-selection of the eligible; and any other correspondence or documentation relating to the priority consideration/special reassignment process.

The following data will be included in the records: name of employee, Social Security number, date of birth, home address, home telephone number, job title and occupational group (series), name and title of immediate supervisor, office telephone number, annual salary, and date employed by the agency, work experience, training, and related items.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 3301; 5 U.S.C. 5364.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To the Merit Systems Protection Board, the Federal Labor Relations Authority, and the Equal Opportunity Commission, when requested in

performance of authorized duties for examination of effectiveness of HUD priority consideration and special reassignment procedures; to the Office of Personnel Management for personnel inspections of the Department.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

Individual name and occupational grouping (series).

SAFEGUARDS:

Files are kept in a secured area, with access limited to authorized personnel.

RETENTION AND DISPOSAL:

Records are retained and disposed of in accordance with officially approved mandatory standards contained in HUD Handbooks 2225.6 (HUD Records Schedules), and 2228.2 (General Records Schedules).

SYSTEM MANAGER AND ADDRESS:

Director, Employment Planning and Standards Division, Office of Personnel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

NOTIFICATION PROCEDURE:

For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

RECORD ACCESS PROCEDURES:

The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

CONTESTING RECORD PROCEDURES:

The Department's rules for contesting the contents of records and appeals initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed in relation to contesting the contents of records, it may be obtained by contacting the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A. If additional information or assistance is needed in relation to appeals of initial denials, it may be obtained by contacting the HUD Departmental Appeals Officer, Office of General Counsel, Department of Housing and

Urban Development, 451 Seventh Street S.W., Washington, D.C. 20410.

RECORD SOURCE CATEGORIES:

Participating individual; Department personnel files and records.

HUD/CDP-1

SYSTEM NAME:

Rehabilitation Loans-Delinquent/Default.

SYSTEM LOCATION:

Headquarters and field offices. For a complete listing of these offices, see Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Rehabilitation loan debtors who are delinquent or in default on their loans.

CATEGORIES OF RECORDS IN THE SYSTEM:

Names; credit applications; Social Security Number where available, loan and grant documents, including promissory note, mortgage, deed of trust, title evidence; HUD Section 312 forms and documents; statement of account; sales contract; assumption agreements; compromise agreements; subordination agreements; repayment agreements; collection history, including correspondence with borrower, servicer, and LPA; credit reports; financing statements; records of foreclosures; charge-offs; judgments on the note and deficiency judgments; creditor requests for collection assistance; insurance documents; bankruptcy records and documents; property appraisals; rehabilitation contracts; correspondence with the LPA's and related correspondence and documents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. Sec. 1452b, Housing Act of 1964.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See Routine use paragraphs in prefatory statement. Other routine uses: Department of Justice—for prosecution of fraud revealed in the course of claims collection efforts and for the institution of suit or other proceedings to effect collection of claims; FBI—for investigation of possible fraud revealed in the course of claims collection efforts; General Accounting Office—for audit purposes; private employers and Federal agencies—to facilitate collection of claims against employees; Office of Personnel Management—for offsetting retirement payments; consumer reporting and commercial credit agencies—to facilitate claims collection

consistent with Federal Claims Collection Standards, 4 CFR Section 102.4; to financial institutions that serviced loans—to give notice of disposition of claims; to title insurance companies—for payment of liens; to local recording offices—for filing assignments of legal documents, satisfactions, etc.; to bankruptcy courts—for filing of proofs of claim; to local agencies that service HUD Section 312 (Rehabilitation) loans—to aid in the collection of delinquent loans, to counseling agencies—to provide counseling and assistance in the collection of delinquent Section 312 loans in accordance with HUD/DEPT-22; and to state motor vehicle agencies and Internal Revenue Service—to obtain addresses of debtors.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folders and on magnetic tape/disc/drum.

RETRIEVABILITY:

Case file (Claim) number, name or other identification number.

SAFEGUARDS:

Manual files are kept in lockable cabinets or rooms; automated records are maintained in secured areas. Access to either type of record is limited to authorized personnel.

RETENTION AND DISPOSAL:

Records are primarily active with some historical information; disposal is in accordance with HUD Handbook 2225.6, Appendix 66.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Rehabilitation Management Division, CRM, Office of Urban Rehabilitation, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

NOTIFICATION PROCEDURE:

For information, assistance or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

CONTESTING RECORD PROCEDURES:

The Department's rules for contesting the contents of records and appealing initial denials by the individual concerned appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act

Officer at the appropriate location. A list of all locations is given in Appendix A: (ii) in relation to appeals of initial denials, the Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

RECORD SOURCE CATEGORIES:

Subject individual; current and previous employers; credit bureaus; financial institutions; business firms; federal and non-federal agencies; law enforcement agencies; title companies and abstractors; bankruptcy courts.

HUD/H-1

SYSTEM NAME:

Section 8 Lower-Income Rental Assistance Files.

SYSTEM LOCATION:

Many Field Offices. For a complete list of these offices, with addresses, see Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Tenants in Section 8 Program except for existing housing and moderate rehabilitation programs.

CATEGORIES OF RECORDS IN THE SYSTEM:

Applications filing for eligibility and recertification include names; addresses; social security numbers; telephone numbers; family characteristics; employment and income information; HUD review and certification; verification of employment, income and bank deposits; and related correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Housing Act of 1937 (P.L. 73-479); Housing and Community Development Act of 1974 (P.L. 93-383).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEMS, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See Routine Uses paragraphs in prefatory statement. Other routine uses: none.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Paper records in file cabinets.

RETRIEVABILITY:

Name of tenant.

SAFEGUARDS:

Records are maintained in secured areas with access limited to authorized personnel.

RETENTION AND DISPOSAL:

Records system is active and kept up-to-date.

SYSTEM MANAGER(S) AND ADDRESS:

Special Assistant to the Director, Office of MF Management and Occupancy (HMH), Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

NOTIFICATION PROCEDURE:

For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

RECORD ACCESS PROCEDURES:

The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

CONTESTING RECORD PROCEDURES:

The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Office at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

RECORD SOURCE CATEGORIES:

Subject individuals; landlords; financial institutions; employers; and local housing authorities.

HUD/H-3

SYSTEM NAME:

Single Family Housing Monitoring System (F-39)

SYSTEM LOCATION:

Headquarters.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Single-family mortgagors.

CATEGORIES OF RECORDS IN THE SYSTEM:

Cross-indexes (used to support studies and investigations).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

National Housing Act of 1934, P.L. 73-479, Sec. 209.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See Routing Uses paragraphs in prefatory statement. Other routine uses: none.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic tape/disc/drum.

RETRIEVABILITY:

Name; case file number.

SAFEGUARDS:

Computer facilities are secured and accessible only by authorized personnel, and all files are stored in a secured area. Technical restraints are employed with regard to accessing the computer and data files.

RETENTION AND DISPOSAL:

Records system is active and kept up-to-date.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Management Information Systems Division, HAI, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

NOTIFICATION PROCEDURE:

For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the Headquarters location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

RECORD ACCESS PROCEDURES:

The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at Headquarters. A list of all locations is given in Appendix A.

CONTESTING RECORD PROCEDURES:

The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the Headquarters location. This location is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals

Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

RECORD SOURCE CATEGORIES:

Subject individuals; current or previous employers; credit bureau; financial institutions; corporations; firms; federal government agencies.

HUD/H-5

SYSTEM NAME:

Single-family Homes Management Underwriting (CHUMS) System.

SYSTEM LOCATION:

Headquarters and field offices. For a complete listing of these offices, with addresses, see Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals involved in the HUD/FHA single-family underwriting process (builders, fee appraisers, fee mortgage credit examiners, fee inspectors, mortgagors) and HUD employees involved in the single-family underwriting process (Directors, Deputy Directors of Housing Divisions, Service Office Supervisors, staff appraisers, staff mortgage credit examiners, architectural employees, receiving clerks, assignment clerks, commitment clerks, records clerk, and closing clerks).

CATEGORIES OF RECORDS IN THE SYSTEM:

Case binders and automated files contain name, address, social security number or other identification number, and minority data (including racial/ethnic background, Minority Business Enterprise (MBE) Code, and sex for statistical tracking purposes), of the builder and mortgagor. These records also contain the name, address, social security number or other identification number, territory, workload, and minority data (including racial/ethnic background, Minority Business Enterprise (MBE) Code, and sex, for statistical tracking purposes), of fee appraisers, fee mortgage credit examiners, and fee inspectors. Additionally, the automated files contain identification (name and social security or other identifying number) of HUD employees involved in the single-family underwriting process (Directors, Deputy Directors of Housing Divisions, Service Office Supervisors, staff appraisers, staff mortgage credit examiners, architectural employees, receiving clerks, assignment clerks, commitment clerks, records clerks, and closing clerks).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 203, National Housing Act, Pub. L. 73-479.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See Routine Uses paragraphs in prefatory statement. Other routine uses: none.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

In case binders and on magnetic tape/disc/drum.

RETRIEVABILITY:

Name, social security number or other identification number.

SAFEGUARDS:

Manual files are kept in lockable cabinets or rooms; automated records are maintained in secured areas. Access to either type of record is limited to authorized personnel.

RETENTION AND DISPOSAL:

Manual records of insured cases are retained for 36 years and rejected cases are retained for one year. Computerized records of insured cases are retained for 10 years and rejected cases are retained for 3 years.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Single Family Housing, HSS, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410.

NOTIFICATION PROCEDURE:

For information, assistance, or inquiry about existence of records, contact the Privacy Act Office at the appropriate location in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

RECORD ACCESS PROCEDURES:

The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

CONTESTING RECORD PROCEDURES:

The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act

Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Office, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

RECORD SOURCE CATEGORIES:

Mortgagees, Appraisers, Inspectors, Mortgage Credit Examiners, Builders, and HUD Employees.

HUD/H-6

SYSTEM NAME:

Section 518 Files.

SYSTEM LOCATION:

HUD field offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

HUD insured owners of one-to-four family dwellings who filed claims because of structural or other major defects found in their homes.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, address, home phone number, property inspection report, disposition of claim information and other information pertinent to the claim.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sec. 104, Housing and Urban Development Act of 1970 (P.L. 91-609), 12 U.S.C. 1735b.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See Routine Uses paragraphs in prefatory statement. Other routine uses: none.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

In file folders.

RETRIEVABILITY:

Name, case number, and claim number.

SAFEGUARDS:

Records are kept in lockable file cabinets with access limited to authorized personnel.

RETENTION AND DISPOSAL:

Records are retained for six years and then disposed.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Special Programs Branch, HSSI, Department of Housing and Urban

Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

NOTIFICATION PROCEDURE:

For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

RECORD ACCESS PROCEDURES:

The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

CONTESTING RECORD PROCEDURES:

The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Record source categories:

Subject individuals and Departmental records.

HUD/H-7

SYSTEM NAME:

Previous Participation Files.

SYSTEM LOCATION:

Headquarters and field offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Principals (owners, general contractors, management agents, consultants and packagers) in HUD multifamily housing programs.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information concerning the Department's consideration/approval/disapproval of HUD multifamily housing program principals, including names and Social Security Numbers of principals; lists of prior HUD projects; summaries of financial, management, or operational difficulties with prior HUD projects (if any); indication of whether principals are or have been the subject of a government investigation, other information relevant to the standards for

previous participation approval; minutes of deliberative meetings.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 7(d), Department of HUD Act, 79 Stat. 670, (42 U.S.C. 3535(d)).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See Routine Uses paragraphs of prefatory statement. Other routine uses: To state and local governments participating in HUD housing programs as co-insurers or finance agencies—to assist in project application reviews.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folders in filing cabinets.

RETRIEVABILITY:

Name of principal and HUD project case number.

SAFEGUARDS:

Files are kept in lockable cabinets. Access is limited to authorized personnel.

RETENTION AND DISPOSAL:

Records are primarily active; disposal is in accordance with HUD Handbook.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Participation and Compliance Division, HAC, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

NOTIFICATION PROCEDURE:

For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the Headquarters location, in accordance with 24 CFR Part 16. This location is given in Appendix A.

RECORD ACCESS PROCEDURES:

The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the Headquarters location. A list of all locations is given in Appendix A.

CONTESTING RECORD PROCEDURES:

The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed in relation to contesting the contents of records, it may be obtained by contacting the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A. If

additional information or assistance is needed in relation to appeals of initial denials, it may be obtained by contacting the HUD Departmental Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

RECORD SOURCE CATEGORIES:

Subject individuals; HUD Field Offices; other governmental agencies.

HUD/NVACP-1

SYSTEM NAME:

Consumer Register Mailing List.

SYSTEM LOCATION:

Headquarters and field offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have expressed an interest in HUD programs, users of HUD programs, and persons wishing to comment on various policymaking issues.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, address and telephone number of the participant; organization name and type; issues of interest to participants.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 4(a) of the Department of Housing and Urban Development Act, 42 U.S.C. 3531; Executive Order 12160.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To other Federal agencies and private organizations for purposes of mailing information relevant to the use or benefits of HUD programs or related public or private programs.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

In file folders and on magnetic tape/disc/drum.

RETRIEVABILITY:

Name, address and telephone number of the participant; organization name and type; issues of interest to participants.

SAFEGUARDS:

Manual files will be kept in lockable cabinets in a secured area. Computer records will be maintained in a separate secured area. Access to either type of record will be limited to authorized personnel.

RETENTION AND DISPOSAL:

Manual and automated records are retained in accordance with officially approved mandatory standards contained in HUD Handbooks 2225.6 and 2228.2.

SYSTEM MANAGERS AND ADDRESS:

Director, Consumer Liaison Division
Assistant Secretary for Neighborhoods,
Voluntary Associations and Consumer
Protection

Department of Housing and Urban
Development, 451 7th Street SW.,
Washington, D.C. 20410

NOTIFICATION PROCEDURE:

For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

RECORD ACCESS PROCEDURES:

The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

CONTESTING RECORD PROCEDURES:

The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) In relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A, (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

RECORD SOURCE CATEGORIES:

Individuals who have expressed an interest in HUD programs; persons wishing to comment on various policymaking issues; members of the Register who provide names of other possible participants.

HUD/PD&R-1**SYSTEM NAME:**

Urban Homesteading Evaluation
Data.

SYSTEM LOCATION:

Cambridge, Massachusetts.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Urban homesteaders, other residents of Urban Homesteading Demonstration (UHD) target neighborhoods, and unsuccessful applicants for UHD properties.

CATEGORIES OF RECORDS IN THE SYSTEM:

Demographic, socioeconomic, housing characteristics, and housing costs.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sec. 810(e), Housing and Community Development Act of 1974 (Pub. L. 93-383), 12 U.S.C. 1706e.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See Routine Uses paragraphs of prefatory statement. Other routine uses: none.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**STORAGE:**

Survey questionnaires stored in file folders; punch cards, magnetic tape/disc/drum stored in facilities with limited access.

RETRIEVABILITY:

Code number, address.

SAFEGUARDS:

File folders stored in locked cabinets; machine-readable files stored in secured areas and technical restraints are employed with regard to accessing the computer and machine-readable files. All material accessible only by authorized personnel.

RETENTION AND DISPOSAL:

Questionnaires are retained for about one month to permit conversion of data into machine-readable format; machine-readable records will be disposed of in approximately three years, early 1980.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Community Conservation Research Division, TRR, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

NOTIFICATION PROCEDURE:

For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the Headquarters location, in accordance with 24 CFR Part 16. This location is given in Appendix A.

RECORD ACCESS PROCEDURES:

The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If

additional information or assistance is required, contact the Privacy Act Officer at the Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

CONTESTING RECORD PROCEDURES:

The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) In relation to contesting contents of records, the Privacy Act Officer at the headquarters location. This location is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

RECORD SOURCE CATEGORIES:

Urban homesteaders, other residents of UHD target neighborhoods, and unsuccessful applicants for UHD properties.

HUD/PD&R-2**SYSTEM NAME:**

Solar Energy Demonstration Survey Files.

SYSTEM LOCATION:

Headquarters.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Purchasers and renters of solar heated or cooled housing under the demonstration program; comparative purchasers of conventional heated and cooled housing; prospective purchasers of housing marketed under the demonstration program.

CATEGORIES OF RECORDS IN THE SYSTEM:

Housing characteristics, reason for moving, utility expenditures, neighborhood characteristics, perception of housing and subdivision, housing costs and financing characteristics, marketing attitudes toward solar energy, operating experience with heating and cooling systems, socioeconomic information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Solar Heating and Cooling Demonstration Act (Pub. L. 93-409), Sec. 11, 42 U.S.C. 5509.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See Routine Uses paragraph in the prefatory statement. Other routine uses: Real Estate Research Corporation (Chicago, Ill.) for analysis and evaluation of solar energy use and its acceptance by the public.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

In file folders and on magnetic tape/disc/drum.

RETRIEVABILITY:

Name; address; code number; and index.

SAFEGUARDS:

Computer facilities are secured and accessible only to authorized personnel. The name-address index file will be kept in the Department in lockable file cabinets, with access limited to key authorized personnel.

RETENTION AND DISPOSAL:

Records will be maintained until followup interviews have been completed. Records of survey participants will be destroyed as each cycle ends or the participants leave the program. Hard copy questionnaires will be destroyed after they are encoded into machine readable format. All records will be destroyed in the conclusion of the study, scheduled to end in approximately five years.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Energy Building Technology and Standards Division, TRB, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

NOTIFICATION PROCEDURE:

For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the Headquarters location, in accordance with 24 CFR Part 16. This location is given in Appendix A.

RECORD ACCESS PROCEDURES:

The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at Headquarters. This location is given in Appendix A.

CONTESTING RECORD PROCEDURES:

The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If

additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the Headquarters location. This location is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

RECORD SOURCE CATEGORIES:

Subject individuals.

HUD/PD&R-3

SYSTEM NAME:

Urban Reinvestment Task Force Data.

SYSTEM LOCATION:

Cambridge, Mass.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Participants in Neighborhood Housing Services (NHS) Program and other residents of NHS neighborhoods.

CATEGORIES OF RECORDS IN THE SYSTEM:

Socio-economic, demographic and housing characteristics of participants, their perceptions of the neighborhood, and of the NHS program, and housing investment behavior of residents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title V, Housing and Urban Development Act of 1970, P.L. 91-609.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See Routine Uses paragraphs in prefatory statement. Other routine uses: none.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

In file folders, punch cards, magnetic tape and computer disc.

RETRIEVABILITY:

Identification code.

SAFEGUARDS:

Access to file folders and computer files limited to authorized personnel.

RETENTION AND DISPOSAL:

Retained until June 1981 and then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Community Conservation Research, Office of Research, Assistant Secretary for Policy Development and Research, Department

of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

NOTIFICATION PROCEDURE:

For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the Headquarters location, in accordance with 24 CFR Part 16. This location is given in Appendix A.

RECORD ACCESS PROCEDURES:

The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the Headquarters location. This location is given in Appendix A.

CONTESTING RECORD PROCEDURES:

The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the Headquarters location. This location is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

RECORD SOURCE CATEGORIES:

Survey participants.

HUD/PD&R-4

SYSTEM NAME:

Prepurchase Counseling Demonstration and Evaluation Records.

SYSTEM LOCATION:

Cambridge, Mass.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who seek homes and inquire about the program; first-time homeseekers who join the program, counseled individuals after they purchase a home or decide not to purchase; and counseled individuals who default on their mortgages.

CATEGORIES OF RECORDS IN THE SYSTEM:

Socio-economic, demographic, financial, attitudinal and, if appropriate, mortgagor payment information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sec. 508a of the Housing Authorization Act of 1976 (P.L. 94-375), 12 U.S.C. 1701z-1.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See Routine Uses in prefatory statement. Other routine uses: none.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

In file folders and on magnetic tape.

RETRIEVABILITY:

Name and Identification No.

SAFEGUARDS:

Files are maintained in a secured data storage bank and in lockable file cabinets with access limited to authorized persons.

RETENTION AND DISPOSAL:

Records are retained until December 31, 1980 and then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Community Conservation Research Division, TRR, 451 Seventh Street, S.W., Washington, D.C. 20410.

NOTIFICATION PROCEDURE:

For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the Headquarters location in accordance with 24 CFR Part 16. This location is given in Appendix A.

RECORD ACCESS PROCEDURES:

The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the Headquarters location. This location is given in Appendix A.

CONTESTING RECORD PROCEDURES:

The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the Headquarters location. This location is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

RECORD SOURCE CATEGORIES:

Subject individual, institution servicing the mortgage and HUD approved counseling agency.

HUD/PD&R-5

SYSTEM NAME:

HUD Community Development Block Grant Evaluation Files.

SYSTEM LOCATION:

Location of private data collection firm to be selected and headquarters office.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

A sample of occupants of owner-occupied and rental housing units and members of neighborhood groups in selected community development block grant (CDBG) entitlement cities.

CATEGORIES OF RECORDS IN THE SYSTEM:

Demographic, socioeconomic, housing, and neighborhood characteristics, utilization of neighborhood services and facilities and attitudes about the CDBG program.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title V, Sec. 501, 502, Housing and Urban Development Act of 1970 (P.L. 91-609), 12 U.S.C. 1701z-1, 1701z-2.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See routine uses paragraphs of prefatory statement. Other routine uses: the University of Pennsylvania for analyses of the impacts and benefits of the CDBG program.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Manual records stored in lockable file drawers located in lockable rooms. Access limited to authorized personnel. Personal identifiers such as mailing labels, names, addresses, and assigned codes maintained in separate locked files with access restricted. Automated records contain no identification of individuals except assigned numeric codes.

RETRIEVABILITY:

Name, address, and numeric code.

SAFEGUARDS:

Manual records stored in lockable file cabinets in lockable rooms and computer facilities are in secured areas. Access to both types of records are limited to authorized personnel.

RETENTION AND DISPOSAL:

Records maintained for duration of study, approximately 4 years. Manual records, including lists of names and addresses indexed to numeric codes,

will be destroyed. Computer records without personal identifiers will be maintained for a longer period.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Evaluation Division, TRI, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

NOTIFICATION PROCEDURE:

For information, assistance or inquiry about the existence of records, contact the Privacy Act officer at the headquarters location, in accordance with 24 CFR Part 16. This location is given in appendix A.

RECORD ACCESS PROCEDURES:

The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act officer at the Headquarters location. This location is given in appendix A.

CONTESTING RECORD PROCEDURES:

The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) In relation to contesting contents of records, the Privacy Act officer at the headquarters location. This location is given in appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

RECORD SOURCE CATEGORIES:

Subject individual.

HUD/PD&R-6

SYSTEM NAME:

Real Estate Settlement Costs Research Files.

SYSTEM LOCATION:

Contractor's office (contractor to be selected).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Buyers and sellers of individual residential housing units and owners of such units who refinance their mortgages.

CATEGORIES OF RECORDS IN THE SYSTEM:

A national sample of Uniform Settlement Statement (HUD-1) forms, showing detailed settlement items and their costs, will be collected from

mortgage lenders. Follow-up phone calls to buyers and sellers listed on these forms may be made to elicit information on settlement procedures, costs, etc. In addition, a sample of HUD-1 forms and good-faith estimates of settlement costs will be collected from mortgage lenders in about 12 different housing markets across the country; a sub-sample of these forms will be used to draw a sample of buyers and sellers, as well as a sample of attorneys, mortgage lenders, and others who provided services to buyers and sellers in the sub-sample; this sub-sample will then be interviewed. Data will also be collected from national experts in this subject area and from State and local bodies which regulate providers of settlement services.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sec. 14, Real Estate Settlement Procedures Act of 1974 (88 Stat. 1724), 12 U.S.C. 2613.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See Routine Uses paragraphs in prefatory statement. Other routine uses: None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folders and magnetic tape/disc/drum.

RETRIEVABILITY:

Name or address of subject:

SAFEGUARDS:

Manual records stored in lockable file cabinets and desks in lockable rooms and computer facilities are in secured areas. Access to both types of records are limited to authorized personnel.

RETENTION AND DISPOSAL:

All records will be maintained for five years until the end of 1983.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Housing and Demographic Analysis Division, TEH, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

NOTIFICATION PROCEDURE:

For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the Headquarters location in accordance with 24 CFR Part 16. This location is given in Appendix A.

RECORD ACCESS PROCEDURES:

The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the headquarters location. This location is given in Appendix A.

CONTESTING RECORD PROCEDURES:

The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) In relation to contesting contents of records, the Privacy Act Officer at the Headquarters location. This location is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410.

RECORD SOURCE CATEGORIES:

Subject individual, mortgage lenders, title insurance firms, real estate agents, title abstractors, land surveyors and other providers of settlement services.

HUD/PD&R-7

SYSTEM NAME:

Section 8 Program Research Data Files.

SYSTEM LOCATION:

Cambridge, Massachusetts; Boone, North Carolina.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Families selected in a random sample of applicants to and certificate holders in the Section 8 Program.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, address, household demographics (age, sex, race, education, income, handicapped/disabled), status/condition of pre-program housing unit, typology of pre-program neighborhood, and program understanding of the respondent.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sec. 501, 502, Housing and Urban Development Act of 1970 (P.L. 91-609), 12 U.S.C. 1701z-1, 1701z-2.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

In file folders and on magnetic tape/disc/drum.

RETRIEVABILITY:

Name, address.

SAFEGUARDS:

Manual files will be kept in lockable cabinets in a secured area; computer records will be maintained in a separate secured area. Access to either type of record will be limited to authorized personnel.

RETENTION AND DISPOSAL:

All personal identifiers will be destroyed approximately four months after the system is created.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Housing Assistance Research Division, TRH Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

NOTIFICATION PROCEDURE:

For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the Headquarters locations, in accordance with 24 CFR Part 16. This location is given in Appendix A.

RECORD ACCESS PROCEDURES:

The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, Contact the Privacy Act Officer at the Headquarters location. This location is given in Appendix A.

CONTESTING RECORD PROCEDURES:

The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the headquarters location. This location is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

RECORD SOURCE CATEGORIES:

Subject.

HUD/PD&R-8**SYSTEM NAME:**

Income Certification Evaluation Data files

SYSTEM LOCATION:

Applied Management Science, Inc.,
Silver Spring, MD.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Tenants of Section 8, Section 236, and Public Housing projects. Projects are selected randomly from a subset of all projects, tenants are selected randomly from the set of all tenants of the projects thus sampled.

CATEGORIES OF RECORDS IN THE SYSTEM:

Family identification (name, address, Social Security Number), household demographics (age, sex, family size, income and income sources, length of tenure), verification of income data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title V, Section 501 and 502 of the Housing and Community Development Act of 1970, P.L. 91-609.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See routine uses paragraphs of prefatory statement. Other routine uses: Applied Management Science, Inc.—to carry out objectives of study, Social Security Administration, Internal Revenue Service—to verify income data.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**STORAGE:**

In file folders and on magnetic tape/disc/drum.

RETRIEVABILITY:

Name, address, Social Security Number.

SAFEGUARDS:

Manual files will be kept in lockable cabinets in a secured area; computer records will be maintained in a separate secured area. Access to either type of record will be limited to authorized personnel.

RETENTION AND DISPOSAL:

All records will be destroyed at the completion of the study.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Evaluation Division,
Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

NOTIFICATION PROCEDURE:

For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the Headquarters location, in accordance with 24 CFR Part 16. This location is given in Appendix A.

RECORD ACCESS PROCEDURES:

The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the Headquarter's location. This location is given in Appendix A.

CONTESTING RECORD PROCEDURES:

The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the Headquarters location. This location is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

RECORD SOURCE CATEGORIES:

Subject, Income Sources.

HUD/PD&R-9**SYSTEM NAME:**

Elderly Home Maintenance Demonstration Evaluation Data Files.

SYSTEM LOCATION:

Urban Systems Research & Engineering, Inc. (USR&E), Cambridge, Massachusetts.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The system will contain data on Elderly Home Maintenance Demonstration (EHMD) participants and their homes from seven local service agencies.

CATEGORIES OF RECORDS IN THE SYSTEM:

Pre-demonstration and post-demonstration interview files will contain the following types of data on program applicants and their homes; name and address and identifier code number, home repair needs, income amount by source, housing characteristics, health status, household composition and family status. Interviews will also record disability type, disability status, and race. All these data are used by the local service agencies to assist with and improve

service delivery and will be used to produce demonstration evaluation reports to the Department of Housing and Urban Development.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sections 501 and 502 of the Housing Act of 1970.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To the HUD contractor for program evaluation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**STORAGE:**

In file folders and on magnetic tape/disc.

RETRIEVABILITY:

Records will be retrieved by identifier code number. Lists with names and addresses and identifier code will be provided separately by the local agencies and maintained separately. These lists are necessary to identify participants for the post-demonstration interview.

SAFEGUARDS:

System manual files will be kept in locked cabinets in a secured area; computer records will be maintained in a secured area. Access to either type of record will be restricted to authorized personnel. Lists with names and addresses and identifier codes will be kept separate from the manual files under lock and key. In all cases, name and address will be detached from the manual files and stored in a separate locked cabinet.

RETENTION AND DISPOSAL:

Once pre- and post-demonstration interviews have been merged, names and addresses will be destroyed. Any stored data will not contain identifying names and/or addresses. Manual and automated records will be retained in accordance with officially approved mandatory standards contained in HUD Handbooks 2225.6 and 2228.2.

SYSTEM MANAGERS AND ADDRESS:

Director, Division of Housing Management and Special Users Research, TRS, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

NOTIFICATION PROCEDURE:

For information, assistance or inquiry about existence of records, contact the Privacy Act Officer at the Headquarters

location, in accordance with 24 CFR Part 16. This location is given in Appendix A.

RECORD ACCESS PROCEDURES:

The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at Headquarters. This location is given in Appendix A.

CONTESTING RECORD PROCEDURES:

The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the Headquarters location. This location is given in Appendix A, (ii) in relation to appeals in initial denials, the HUD Department Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

RECORD SOURCE CATEGORIES:

Demonstration participants.

HUD/PD&R—10

SYSTEM NAME:

Home Repair Service for the Elderly: Baltimore Sample Data File.

SYSTEM LOCATION:

Institute for Social Research, The University of Michigan, Ann Arbor, Michigan 48106.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Elderly homeowners who are participating in the Baltimore Home Maintenance Project and a control sample of elderly homeowners in Baltimore who are not participating in the Baltimore Home Maintenance Project.

CATEGORIES OF RECORDS IN THE SYSTEM:

The files will contain the following information on some, or all, of the sample points: street address, ZIP Code, telephone number, name of eligible sample member, identification link to the interview, and observation information such as family structure, health status, dwelling unit condition, and repair needs.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title V of the Housing and Urban Development Act of 1970, as amended, Sections 501 and 502.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To HUD contractor—for program evaluation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

In file folders and on magnetic tape/disk/drum.

RETRIEVABILITY:

Name, address, telephone number.

SAFEGUARDS:

Manual files will be kept in lockable cabinets in a secured area; computer records will be maintained in a separate secured area. Access to either type of record will be limited to authorized personnel.

RETENTION AND DISPOSAL:

Personal identifiers will be destroyed after data have been collected and unified. Retention and disposal shall be in accordance with HUD Handbook 2225.8.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Housing Management and Special Users Research, TRS, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

NOTIFICATION PROCEDURE:

For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the Headquarters location, in accordance with 24 CFR Part 16. This location is given in Appendix A.

RECORD ACCESS PROCEDURES:

The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at Headquarters. This location is given in Appendix A.

CONTESTING RECORD PROCEDURES:

The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) In relation to contesting contents of records, the Privacy Act Officer at the Headquarters location. This location is given in Appendix A, (ii) In relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban

Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

RECORD SOURCE CATEGORIES:

Subject individuals, Professional Assessment Committee, Project Managers.

APPENDIX—OFFICIALS TO RECEIVE INQUIRIES, REQUESTS FOR ACCESS AND REQUESTS FOR CORRECTION OR AMENDMENT

Headquarters

Privacy Act Officer, 451 Seventh Street SW., Washington, D.C. 20410.

Region I

Regional Administrator, Room 800, John F. Kennedy Federal Building, Boston, Mass. 02203.

Area Offices

Area Manager, Bulfinch Building, 15 New Chardon Street, Boston, Mass. 02114.

Area Manager, One Hartford Square West, Suite 204, Hartford, Conn. 06106.

Service Offices

Supervisor, Norris Cotton Federal Building, 275 Chestnut Street, Manchester, New Hampshire 03103.

Supervisor, Room 330, John O. Pastore Federal Building, U.S. Post Office, Kennedy Plaza, Providence, Rhode Island 02903.

Valuation/Endorsement Stations

Supervisor, Federal Building and Post Office, 202 Harlow Street, Bangor, Maine 04401.

Supervisor, 110 Main Street, P.O. Box 989, Burlington, Vermont 05402.

Region II

Regional Administrator, 26 Federal Plaza, New York, New York 10278.

Area Offices

Area Manager, Mezzanine, Statler Building, 107 Delaware Avenue, Buffalo, New York 14202.

Area Manager, 26 Federal Plaza, New York, New York 10278.

Area Manager, Gateway I Building, Raymond Plaza, Newark, New Jersey 07102.

Caribbean Area Office

Area Manager, Federico Degetau Federal Building, U.S. Courthouse, Room 428, Carlos E. Chardon Avenue, Hato Rey, Puerto Rico 00918.

Service Offices

Supervisor, Leo W. O'Brien Federal Building, North Pearl Street and Clinton Avenue, Albany, New York 12207.

Supervisor, The Parkade Building, 519 Federal Street, Camden, New Jersey 08103.

Region III

Regional Administrator, Curtis Building, 6th and Walnut Streets, Philadelphia, Pa. 19106.

Area Offices

Area Manager, The Equitable Building, Third Floor, 10 North Calvert Street, Baltimore, Maryland 21202.

Area Manager, Curtis Building, 625 Walnut Street, Philadelphia, Pa. 19106.

Area Manager, Fort Pitt Commons, 445 Fort Pitt Blvd., Pittsburgh, Pennsylvania 15219.

Area Manager, 701 East Franklin Street, Richmond, Virginia 23219.

Area Manager, Universal North Building, 1875 Connecticut Avenue NW., Washington, D.C. 20009.

Service Office

Supervisor, Kanawha Valley Building, Capitol and Lee Streets, Charleston, West Virginia 25301.

Valuation/Endorsement Station

Supervisor, 800 Delaware Avenue, Room 511, Wilmington, Delaware 19806.

Region IV

Regional Administrator, Richard B. Russell, Federal Building, 75 Spring Street, S.W., Atlanta, Georgia 30303.

Area Offices

Area Manager, Richard B. Russell Federal Building, 75 Spring Street, S.W., Atlanta, Georgia 30303.

Area Manager, Daniel Building, 15 South 20th Street, Birmingham, Alabama 35233.

Area Manager, Strom Thurmond Federal Building, 1835-45 Assembly Street, Columbia, South Carolina 29201.

Area Manager, 415 N. Edgeworth Street, Greensboro, North Carolina 27401.

Area Manager, Federal Building, Suite 1016, 100 W. Capitol Street, Jackson, Mississippi 39201.

Area Manager, Peninsular Plaza, 661 Riverside Avenue, Jacksonville, Florida 32204.

Area Manager, One Northshore Building, 1111 Northshore Drive, Knoxville, Tennessee 37919.

Area Manager, 539 River City Mall, P.O. Box 1044, Louisville, Kentucky 40202.

Service Offices

Supervisor, 3001 Ponce de Leon Boulevard, Coral Gables, Florida 33134.

Supervisor, Federal Building, 700 Twiggs Street, Post Office Box 2097, Tampa, Florida 33601.

Supervisor, Federal Building—U.S. Courthouse, 80 N. Hughey Avenue, Orlando, Florida 32801.

Supervisor, 28th Floor, 100 North Main Street, Memphis, Tennessee 38103.

Supervisor, One Commerce Place, Suite 1600, Nashville, Tennessee 37219.

Region V

Regional Administrator, 300 South Wacker Drive, Chicago, Illinois 60606.

Area Offices

Area Manager, 1 North Dearborn Street, Chicago, Illinois 60602.

Area Manager, New Federal Building, 200 North High Street, Columbus, Ohio 43215.

Area Manager, Patrick V. McNamara Federal Building, 477 Michigan Avenue, Detroit, Michigan 48226.

Area Manager, 151 North Delaware Street, Indianapolis, Indiana 46207.

Area Manager, 744 North 4th Street, Milwaukee, Wisconsin 53203.

Area Manager, Bridge Place Building, 220 Second Street, South, Minneapolis, Minnesota 55401.

Service Offices

Supervisor, Federal Office Building, 550 Main Street, Cincinnati Ohio 45202.

Supervisor, 777 Rockwell Avenue, Cleveland, Ohio 44114.

Supervisor, Northbrook Building Number II, 2922 Fuller Avenue, N.E., Grand Rapids, Michigan 49505.

Supervisor, Genesee Bank Building, Room 200, 352 South Saginaw Street, Flint, Michigan 48502.

Valuation/Endorsement Station

Supervisor, Lincoln Tower Plaza, 524 South Second Street, Springfield, Illinois 62701.

Region VI

Regional Administrator, 221 West Lancaster Street, Post Office Box 2905, Fort Worth, Texas 76113.

Area Offices

Area Manager, 2001 Bryan Tower, 4th Floor, Dallas, Texas 75201.

Area Manager, Suite 1400, One Union National Plaza, Little Rock, Arkansas 72201.

Area Manager, Plaza Tower, 1001 Howard Avenue, New Orleans, Louisiana 70113.

Area Manager, 200 N.W. Fifth Street, Oklahoma City, Oklahoma 73102.

Area Manager, Washington Square, 800 Dolorosa, Post Office Box 9163, San Antonio, Texas 78285.

Service Offices

Supervisor, 221 West Lancaster Street, Post Office Box 2905, Fort Worth, Texas 76113.

Supervisor, Two Greenway Plaza East, Suite 200, Houston, Texas 77046.

Supervisor, Courthouse and Federal Office Building, 1205 Texas Avenue, Post Office Box 1647, Lubbock Texas 79408.

Supervisor, 625 Truman Street, N.E., Albuquerque, New Mexico 87110.

Supervisor, Joe Waggoner Federal Building, 500 Fannin Street, Shreveport, Louisiana 71101.

Supervisor, 440 South Houston Avenue, Tulsa, Oklahoma 74127.

Region VII

Regional Administrator, Professional Building, 1103 Grand Avenue, Kansas City, Missouri 64106.

Area Offices

Area Manager, Professional Building, 1103 Grand Avenue, Kansas City, Missouri 64106.

Area Manager, Univac Building, 7100 West Center Road, Omaha, Nebraska 68106.

Area Manager, 210 North Tucker Boulevard, St. Louis, Missouri 63101.

Service Office

Supervisor, Room 259, Federal Building, 210 Walnut Street, Des Moines, Iowa 50309.

Valuation/Endorsement Station

Supervisor, 444 S.E. Quincy Street, Topeka, Kansas 66683.

Region VIII

Regional Administrator, Executive Tower Building, 1405 Curtis Street, Denver, Colorado 80202.

Service Offices

Supervisor, Room 340, Federal Office Building, Drawer 10095, 301 South Park, Helena, Montana 59601.

Supervisor, 125 South State Street, Salt Lake City, Utah 84111.

Valuation/Endorsement Stations

Supervisor, Federal Office Building, 100 East B Street, Casper, Wyoming 82601.

Supervisor, Federal Building, 653-2nd Avenue, North, Fargo, North Dakota 58102.

Supervisor, 119 Federal Building, U.S. Courthouse, 400 S. Phillips Avenue, Sioux Falls, South Dakota 57102.

Region IX

Regional Administrator, 450 Golden Gate Avenue, Post Office Box 36003, San Francisco, California 94102.

Area Offices

Area Manager, Federal Building, 300 Ala Moana Boulevard, Suite 3318, Honolulu, Hawaii 96850.

Area Manager, 2500 Wilshire Boulevard, Los Angeles, California 90057.

Area Manager, 1 Embarcadero Center, Suite 1600, San Francisco, California 94111.

Service Offices

Supervisor, 34 Civic Center Plaza, Room 614, Santa Ana, California 92701.

Supervisor, Federal Office Building, 880 Front Street, San Diego, California 92188.

Supervisor, Arizona Bank Building, 101 N. First Avenue, Suite 1800, Phoenix, Arizona 85003.

Supervisor, Arizona Bank Building, 33 North Stone Avenue, Tucson, Arizona 85701.

Supervisor, 1315 Van Ness Street, Fresno, California 93721.

Supervisor, 545 Downtown Plaza, Post Office Box 1978, Sacramento, California 95809.

Supervisor, 1060 Bible Way, Post Office Box 4700, Reno, Nevada 89505.

Supervisor, Federal Building—U.S. Courthouse, 300 Las Vegas Boulevard South, Las Vegas, Nevada 89101.

Region X

Regional Administrator, 3003 Arcade Plaza Building, 1321 Second Avenue, Seattle, Washington 98101.

Area Offices

Area Manager, 701 C Street, Box 64, Anchorage, Alaska 99513.

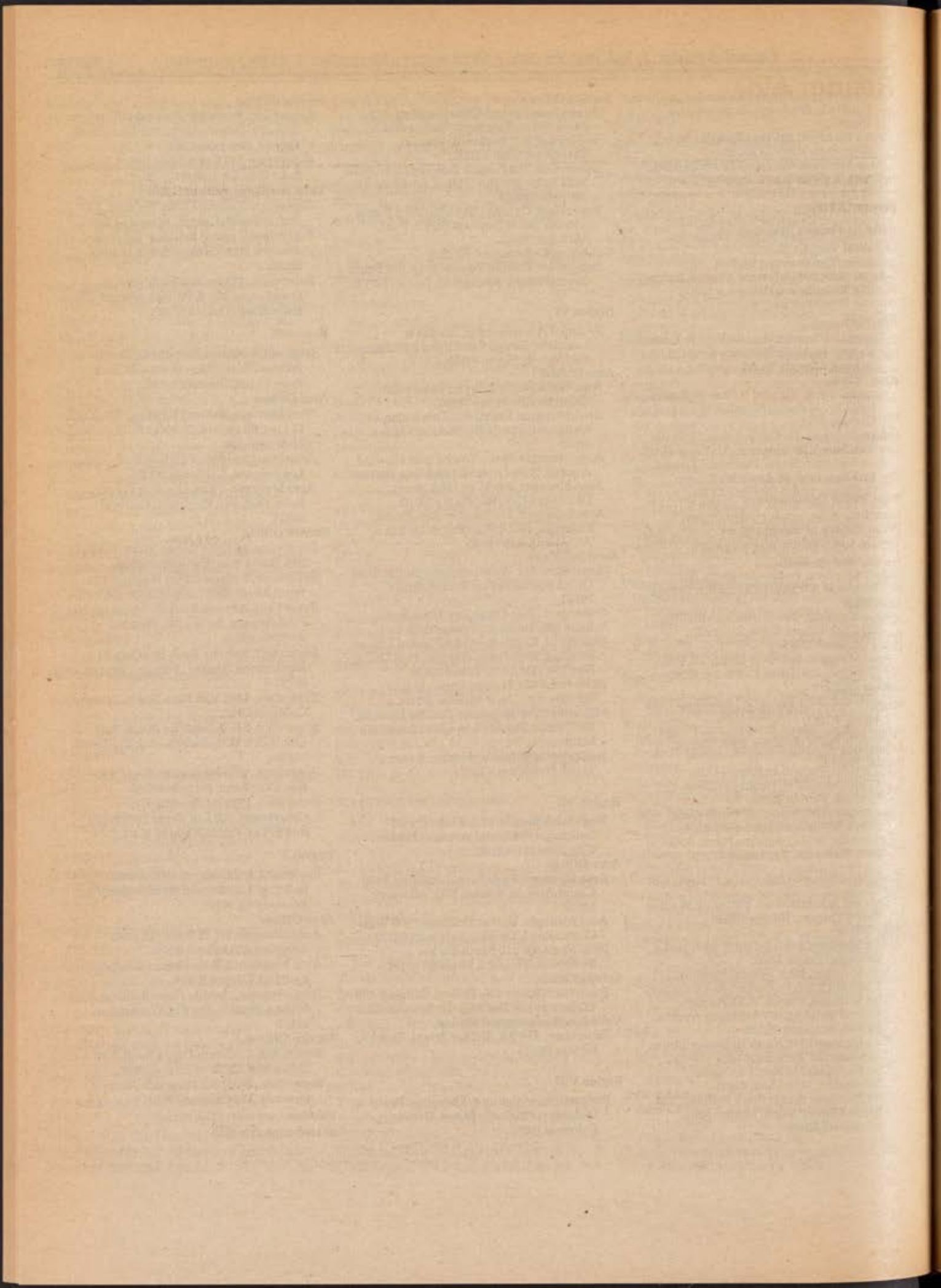
Area Manager, 520 Southwest 6th Avenue, Portland, Oregon 97204.

Area Manager, Arcade Plaza Building, 1321 Second Avenue, Seattle, Washington 98101.

Service Offices

Supervisor, 419 North Curtis Road, Post Office Box 32, Boise, Idaho 83705.

Supervisor, West 920 Riverside Avenue, Spokane, Washington 99201.



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Wednesday, November 4, 1981

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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 41 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/REA		DOT/FAA	USDA/REA
DOT/FHWA	USDA/SCS		DOT/FHWA	USDA/SCS
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/MA	LABOR		DOT/MA	LABOR
DOT/NHTSA	HHS/FDA		DOT/NHTSA	HHS/FDA
DOT/RSPA			DOT/RSPA	
DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday. Comments on this program are still invited.

Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

REMINDERS

The "reminders" below identify documents that appeared in issues of the **Federal Register** 15 days or more ago. Inclusion or exclusion from this list has no legal significance.

Deadlines for Comments on Proposed Rules for the Week of November 8 through November 14, 1981

AGRICULTURE DEPARTMENT

Agricultural Stabilization and Conservation Service—

- 53667 10-30-81 / 1982 national marketing quota for flue-cured tobacco; comments by 11-13-81

Animal and Plant Health Inspection Service—

- 45616 9-14-81 / Viruses, serums, toxins, and analogous products; revision of packaging biological products; comments by 11-13-81

Farmers Home Administration—

- 50080 10-9-81 / New full-time family farmer and rancher development project; comments by 11-9-81

ENERGY DEPARTMENT

Federal Energy Regulatory Commission—

- 50563, 50564 10-14-81 / Colorado: high-cost gas produced from tight formations (2 documents); comments by 11-9-81
- 50517 10-14-81 / Sale of electric power to the Bonneville Power Administration; filing of rate schedules; comments by 11-13-81

ENVIRONMENTAL PROTECTION AGENCY

- 45158 9-10-81 / Approval and promulgation of State implementation plan; Missouri; comments by 11-9-81
- 52141 10-26-81 / Beans; pesticide tolerances; comments by 11-10-81
- 45963 9-16-81 / Grants; State and local assistance; treatment works construction; procurement system requirements; implementation of OMB Circulars A-102 and A-110, Attachments O; availability of preliminary regulations; comments by 11-10-81

- 44970 9-8-81 / Hazardous Waste Management System; identification and listing of hazardous waste; comments by 11-9-81

- 45628 9-14-81 / State implementation plans; revision; Commonwealth of Virginia; comments by 11-13-81

- 48955 10-5-81 / Water pollution control; State underground injection control program; New Mexico Oil Conservation Division primacy application; comments by 11-12-81

FEDERAL COMMUNICATIONS COMMISSION

- 50573 10-14-81 / Frequency band available exclusively for Vessel Traffic Service (BTS) Communications in the Houston VTS radio protected area; comments by 11-9-81
- 43204 8-27-81 / FM broadcast station in Bismarck, N. Dak.; changes in table of assignments; reply comments by 11-9-81
- 43215 8-27-81 / FM broadcast station in Blakely, Ga.; changes in table of assignments; reply comments by 11-9-81
- 43203 8-27-81 / FM broadcast station in Cape Coral, Fla.; changes in table of assignments; reply comments by 11-9-81
- 44008 8-27-81 / FM broadcast station in Cheney, Grand Coulee, and Spokane, Wash.; table of assignments; reply comments by 11-9-81
- 43202 8-27-81 / FM broadcast station in Durant, Okla.; changes in table of assignments; reply comments by 11-9-81
- 43201 8-27-81 / FM broadcast station in Ellijay, Ga.; changes in table of assignments; reply comments by 11-9-81
- 43209 8-27-81 / FM broadcast station in Goose Creek, S.C.; changes in table of assignments; reply comments by 11-9-81
- 43208 8-27-81 / FM broadcast station in Kodiak, Alaska; changes in table of assignments; reply comments by 11-9-81
- 43213 8-27-81 / FM broadcast station in Kremmling, Colo.; changes in table of assignments; reply comments by 11-9-81
- 43207 8-27-81 / FM broadcast station in Las Vegas, Nev.; changes in table of assignments; reply comments by 11-9-81

- 43216 8-27-81 / FM broadcast station in Leoti, Kans.; changes in table of assignments; reply comments by 11-9-81
- 43206 8-27-81 / FM broadcast station in Naknek, Ala.; changes in table of assignments; reply comments by 11-9-81
- 43212 8-27-81 / FM broadcast station in Riverton, Wyo.; changes in table of assignments; reply comments by 11-9-81
- 43211 8-27-81 / FM broadcast station in Sidney, Nebr.; changes in table of assignments; reply comments by 11-9-81
- 43217 8-27-81 / FM broadcast station in Virginia Beach, Va.; changes in table of assignments; reply comments by 11-9-81
- 44011 9-2-81 / FM broadcast station in Winamac, Ind.; table of assignments; reply comments by 11-9-81
- 43210 8-27-81 / FM broadcast station in Woodstock, Va.; changes in table of assignments; reply comments by 11-9-81
- 43715 8-31-81 / FM broadcast station; changes in table of assignments; Fairfield, Tex.; reply comments by 11-9-81
- 43717 8-31-81 / FM broadcast station; changes in table of assignments; Fairmont, W. Va.; reply comments by 11-9-81
- 43712 8-31-81 / FM broadcast station; changes in table of assignments; Palm Springs, Calif.; reply comments by 11-9-81
- 43714 8-31-81 / FM broadcast station; changes in table of assignments; Williston and Micanopy, Fla.; reply comments by 11-9-81
- 49622 10-7-81 / Redefining classes of coast stations by mode and area of operation and frequency band; comments by 11-9-81
- 43716 8-31-81 / TV broadcast station; changes in table of assignments; Alvin, Tex.; reply comments by 11-9-81
- FEDERAL MARITIME COMMISSION**
- 44998 9-9-81 / Dual-rate contract systems in Foreign Commerce of U.S.; amendment to allow a third rebuttable presumption; comments by 11-9-81
- GENERAL SERVICES ADMINISTRATION**
- 45163 9-10-81 / Gasohol in Federal motor vehicles; guidelines for purchase and use; comments by 11-9-81
- National Archives and Records Service—
- 44788 9-8-81 / Records management; updating certain fire safety requirements; comments by 11-9-81
- HOUSING AND URBAN DEVELOPMENT DEPARTMENT**
- Community Planning and Development, Office of Assistant Secretary—
- 45603 9-14-81 / Community Development Block Grant Program; revisions to urban county qualification requirements; procedures for joint applications from urban counties and metropolitan cities; and qualification of towns and townships as metropolitan cities; comments by 11-13-81
- Federal Housing Commissioner—Office of Assistant Secretary for Housing
- 51903 10-23-81 / Section 8 housing assistance payments program—financing adjustment for fair market rents; comments by 11-9-81
- INTERIOR DEPARTMENT**
- Fish and Wildlife Service—
- 49925 10-8-81 / Eagle permits; taking of golden eagle nests; comments by 11-9-81
- [See also 45 FR 809, 1-3-80]
- Indian Affairs Bureau—
- 50565 10-14-81 / Preparation of role of Mohave descendants enrolled as members of the Colorado River Indian Tribes; comments by 11-13-81
- Surface Mining Reclamation and Enforcement Office—
- 52287 10-26-81 / Surface coal mining and reclamation operations permanent regulatory program; comments by 11-10-81

INTERSTATE COMMERCE COMMISSION

- 49151 10-8-81 / Lease and interchange of vehicles; comments by 11-9-81

[See also 46 FR 44013, 9-2-81]

JUSTICE DEPARTMENT

Drug Enforcement Administration—

- 45156 9-10-81 / Schedules of controlled substances; proposed placement of N-ethylamphetamine into Schedule I; comments by 11-9-81

NATIONAL CREDIT UNION ADMINISTRATION

- 50085 10-9-81 / Organization and operation of Federal Credit Unions share, share draft and share certificate accounts; comments by 11-9-81

NUCLEAR REGULATORY COMMISSION

- 46960 9-23-81 / Debt collection procedures; comments by 11-9-81
- 45144 9-10-81 / Material control and accounting requirements for facilities possessing formula quantities of strategic special nuclear material; comments by 11-9-81

TREASURY DEPARTMENT

Customs Service—

- 45625 9-14-81 / Changes in field organization; Gramercy, La. and Juneau and Anchorage, Alaska; comments by 11-13-81

- 45626 9-14-81 / Inspection, search, and seizure of vessels by Customs Officers; comments by 11-13-81

Internal Revenue Service—

- 50808 10-15-81 / Income Tax; exclusion for certain conservation cost-sharing payments; comments by 11-12-81

Deadlines for Comments on Proposed Rules for the Week of November 15 through November 21, 1981

AGRICULTURE DEPARTMENT

Animal and Plant Health Inspection Service—

- 52117 10-26-81 / Scleroderma canker; comments by 11-16-81
- 46563 9-21-81 / Specifically approved States to receive stallions imported from CEM-affected countries; comments by 11-20-81

Commodity Credit Corporation—

- 50378 10-13-81 / Grain warehouses; standards of approval; comments by 11-16-81

Federal Grain Inspection Service—

- 50802 10-15-81 / Revision to the standards for whole dry peas and standards for lentils; comments by 11-16-81

Rural Electrification Administration—

- 45783 9-15-81 / Defective and nonstandard materials and equipment, Bulletin 345-5; comments by 11-16-81
- 45783 9-15-81 / Proposed revision of Bulletins 44-7 (Electric) and 345-3 (Telephone); comments by 11-16-81
- 45784 9-15-81 / Specification for self-supporting cable, PE-38, Bulletin 345-29; comments by 11-16-81

ALASKA NATURAL GAS TRANSPORTATION SYSTEM, OFFICE OF THE FEDERAL INSPECTOR

- 51726 10-22-81 / Rate base audit and approval; standards and procedures; policy statement; comments by 11-20-81

CIVIL AERONAUTICS BOARD

- 46592 9-21-81 / Air taxis; operations in Alaska, classification and exemption and terminations, suspensions, and reductions in service; comments by 11-20-81
- 51390 10-20-81 / Dual authority after domestic route deregulation; comments by 11-19-81
- 46338 9-18-81 / Foreign air carrier permits and foreign citizen exemptions; continuance by law of expired authorizations pending renewal applications determination; comments by 11-17-81

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration—

- 51393 10-20-81 / Improving coastal management in the U.S.; comments by 11-20-81

- 50977 10-16-81 / Recission of proposed interpretation of Federal consistency term, "directly affecting the coastal zone"; comments by 11-16-81
- DEPOSITORY INSTITUTIONS DEREGULATION COMMITTEE**
- 50804 10-15-81 / Short-term time deposit instruments; comments by 11-16-81
- EDUCATION DEPARTMENT**
- 48092 9-30-81 / Fund for the Improvement of Postsecondary Education; assistance awards; comments by 11-16-81
- ENERGY DEPARTMENT**
- Federal Energy Regulatory Commission—
- 52127 10-26-81 / High-cost gas produced from tight formations; Colorado; comments by 11-18-81
- 52126 10-26-81 / High-cost gas produced from tight formations; Colorado; comments by 11-18-81
- 52389 10-27-81 / High-cost gas produced from tight formations; Louisiana; comments by 11-20-81
- 51618 10-21-81 / High-cost gas produced from tight formations; New York; comments by 11-16-81
- 51617 10-21-81 / High-cost gas produced from tight formations; Texas; comments by 11-16-81
- 45624 9-14-81 / Inclusion of construction work in progress for public utilities; reply comments by 11-19-81
- ENVIRONMENTAL PROTECTION AGENCY**
- 50810 10-15-81 / Availability of Illinois State Solid Waste Management Plan; comments by 11-16-81
- 51622 10-21-81 / Carbaryl; tolerance; comments by 11-20-81
- 46351 9-18-81 / Iowa; approval and promulgation of implementation plans; comments by 11-17-81
- 27617 5-20-81 / Manufacture of PCBs in concentrations below fifty parts per millions; possible exclusion from manufacturing prohibition; comments by 11-16-81
- 46597 9-21-81 / National Pollutant Discharge Elimination System; compliance extensions for innovative technologies; comments by 11-20-81
- 27619 5-20-81 / PCBs in concentrations below fifty parts per million; manufacturing, processing commercial distribution and use prohibitions; comments by 11-16-81
- 49814 10-7-81 / Stack height regulations; rebuttal and supplementary; comments by 11-18-81
- 48243 10-1-81 / Underground injection control program criteria and standards; comments by 11-16-81
- 48254 10-1-81 / Underground injection control program criteria and standards; comments by 11-16-81
- FEDERAL COMMUNICATIONS COMMISSION**
- 51784 10-22-81 / Aeronautical radionavigational service; assignment of frequencies in 415-435 kHz band; comments by 11-16-81
- 40902 8-13-81 / Bell operating company procurement of telecommunications equipment; reply comments by 11-15-81
- 44012 9-2-81 / FM broadcast stations in Agana, Guam; table of assignments; reply comments by 11-16-81
- 46357 9-18-81 / FM broadcast station in Billings, Mont.; changes in table of assignments; comments by 11-16-81
- 49624 10-7-81 / FM broadcast stations; Brookville and Versailles, Ind.; extending time for filing comments; reply comments by 11-16-81
- 46354 9-18-81 / FM broadcast stations in Augusta and Gardiner, Maine; changes in table of assignments; comments by 11-16-81
- 46352 9-18-81 / FM broadcast station in Camden, Ala.; changes in table of assignments; comments by 11-16-81
- 46353 9-18-81 / FM broadcast stations in Downs, Kans.; changes in table of assignments; comments by 11-16-81
- 46355 9-18-81 / FM broadcast station in Mountain View, Mo.; changes in table of assignments; comments by 11-16-81
- 44010 9-2-81 / FM broadcast station in Spearfish, S. Dak.; table of assignments; reply comments by 11-16-81
- 40899 8-13-81 / Radio frequency interference to electronic equipment; reply comments by 11-16-81
- 53463 10-29-81 / Request of General Electric Co. to exempt medical diagnostic equipment from a certain part of the Commission's rules; reply comments extended to 11-17-81 [See also 46 FR 44790, 9-8-81]
- 47801 9-30-81 / Revision to permit inland assignment of frequencies in a certain MHz band for non-government radiolocation; order extending reply comments to 11-21-81 [See also 46 FR 39185, 7-31-81]
- 48623 10-2-81 / General Council; Equal Access to Justice Act; implementation; comments by 11-15-81
- HEALTH AND HUMAN SERVICES DEPARTMENT**
- Human Development Services Office—
- 46776 9-21-81 / Work Incentive Program for AFDC recipients under Title IV of the Social Security Act; comments by 11-20-81
- Social Security Administration—
- 46750 9-21-81 / Aid to families with dependent children; eligibility criteria and procedures for program administration; comments by 11-20-81
- HOUSING AND URBAN DEVELOPMENT DEPARTMENT**
- Federal Housing Commissioner, Office of Assistant Secretary for Housing—
- 46317 9-18-81 / HUD/FHA mortgage insurance of condominium units in projects that have been approved for loan guaranty by the Administrator of Veterans Affairs; (interim rule); comments by 11-17-81
- INTERIOR DEPARTMENT**
- Fish and Wildlife Service—
- 46358 9-18-81 / Petition to extend access privileges across the Back Bay National Wildlife Refuge to qualified part-time residents of the Outer Banks; comments by 11-17-81
- 33534 6-30-81 / Reviews of species in Appendices to the Convention on International Trade in Endangered Species of wild fauna and flora; comments by 11-15-81
- 50984 10-16-81 / Provisions to satisfy conditions of Montana's permanent regulatory program under Surface Mining Control and Reclamation Act of 1977; comments by 11-17-81
- INTERSTATE COMMERCE COMMISSION**
- 51413 10-20-81 / Motor carrier consolidation procedures; general policy statement; comments by 11-19-81
- 51253 10-19-81 / Qualifications and requirements of ICC non-attorney practitioners; comments by 11-18-81
- 50998 10-16-81 / Standards for determining rail, service continuation subsidies in the Northeast-Midwest region of the United States; comments by 11-16-81
- JUSTICE DEPARTMENT**
- Justice Assistance, Research, and Statistics Office—
- 46144 9-17-81 / Hearing and appeal procedures available to grantees and applicants for financial assistance; comments by 11-16-81
- LABOR DEPARTMENT**
- Employment and Training Administration—
- 46776 9-21-81 / Work Incentive Program for AFDC recipients under Title IV of the Social Security Act; comments by 11-20-81

- Occupational Safety and Health Administration—
47241 9-25-81 / Access to employee exposure and medical records; modification; comments by 11-20-81
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49134 10-6-81 / Integrated operational experience reporting system; comments by 11-17-81
46582 9-21-81 / Nondiscrimination on basis of age in federally assisted Commission programs; comments by 11-20-81
47799 9-30-81 / Procedural rules for adjudications involving conduct of military or foreign affairs functions; amendment to provide exceptions; comments by 11-16-81
46333 9-18-81 / Safeguards requirements for manpower reactor facilities authorized to possess formula quantities of strategic special nuclear material; comments by 11-17-81
- PERSONNEL MANAGEMENT OFFICE**
46332 9-18-81 / Federal employees health benefits program; benefits for medically underserved areas; comments by 11-17-81
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- SECURITIES AND EXCHANGE COMMISSION**
43459 8-28-81 / Short tendering of securities; comments by 11-15-81
- TRANSPORTATION DEPARTMENT**
 National Highway Traffic Safety Administration—
48260 10-1-81 / Federal motor vehicle safety standards; impact protection for the driver from the steering control system; comments by 11-16-81
 Research and Special Programs Administration—
44198 9-3-81 / Flammable solid; definition; comments by 11-19-81
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- TREASURY DEPARTMENT**
 Customs Service—
46594 9-21-81 / Personal declarations and exemptions; registration of foreign-made tourist articles to be taken abroad; comments by 11-20-81
- VETERANS ADMINISTRATION**
51384 10-20-81 / Loan guaranty; state and local housing authorities limitations on loan assumptions; comments by 11-19-81
51406 10-20-81 / Veterans benefits; burial allowance; comments by 11-19-81

Next Week's Meetings

- ADMINISTRATIVE CONFERENCE OF THE UNITED STATES**
50813 10-15-81 / Interagency Coordination Committee, Washington, D.C. (open), 11-9-81
- ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS**
43727 8-31-81 / Board of Certification; job interview for positions of circuit executive, New York, N.Y. (open), 11-10-81
- AGRICULTURE DEPARTMENT**
 Federal Grain Inspection Service—
52154 10-26-81 / Advisory Committee, Washington, D.C. (open), 11-13-81
 Forest Service—
51797 10-22-81 / Los Padres National Forest Grazing Advisory Board, Santa Maria, Calif. (open), 11-10-81
51796 10-22-81 / Sierra National Forest Grazing Advisory Board, Auberry, Calif. (open), 11-12-81
47803 9-30-81 / Tonto National Forest Grazing Advisory Board, Payson, Ariz. (open), 11-10-81
 Office of the Secretary—
52154 10-26-81 / Meat and Poultry Inspection National Advisory Committee, Washington, D.C. (open), 11-12 and 11-13-81

- Rural Electrification Administration—
50090 10-9-81 / Colorado-Ute Electric Assoc., Inc., Pueblo, Colo. (open), 11-10-81
- ARTS AND HUMANITIES, NATIONAL FOUNDATION**
53236 10-28-81 / Arts National Council, Washington, D.C. (partially open), 11-13 through 11-15-81
52460 10-27-81 / Design Arts Panel, Washington, D.C. (open), 11-12-81
52460 10-27-81 / Humanities, National Council on, Washington, D.C. (open), 11-12 and 11-13-81
51329 10-19-81 / Humanities Panel, Washington, D.C. (closed), 11-9 and 11-10-81
52460 10-27-81 / Visual Arts Panel, (print/drawing/artists books) Washington, D.C. (closed), 11-9 and 11-10-81
- CIVIL RIGHTS COMMISSION**
52157 10-26-81 / Colorado Advisory Committee, Denver, Colo. (open), 11-14-81
- COMMERCE DEPARTMENT**
 Census Bureau—
51946 10-23-81 / Census Advisory Committee of American Statistical Association, Suitland, Md. (open), 11-12 and 11-13-81
 International Trade Administration—
50092 10-9-81 / Exporters' Textile Advisory Committee, Washington, D.C. (open), 11-10-81
 National Oceanic and Atmospheric Administration—
51949 10-23-81 / Inter-Council Swordfish Group and Inter-Council Billfish Group, Atlanta, Ga. (open), 11-9 and 11-10-81
51630 10-21-81 / Pacific Fishery Management Council, its Scientific and Statistical Committee and its Salmon Subpanel, Portland, Oreg. (partially open), 11-11 and 11-12-81
- DEFENSE DEPARTMENT**
 Air Force Department—
51009 10-16-81 / USAF Scientific Advisory Board, Space Division Advisory Group, Los Angeles Air Force Station, Calif. (closed), 11-9 and 11-10-81
 Army Department—
49633 10-7-81 / Army Medical Research and Development Advisory Panel, Medicinal Chemistry Subcommittee, Washington, D.C. (partially open), 11-13-81
49633 10-7-81 / Army Medical Research and Development Panel, Blood Products and Preservation Subcommittee, San Francisco, Calif. (partially open), 11-13-81
 Office of the Secretary—
51632 10-21-81 / Defense Advisory Committee on Military Personnel Testing, San Antonio, Tex. (open), 11-12 and 11-13-81
49940 10-8-81 / Defense Advisory Committee on Women in the Services, Mystic, Conn. (partially open), 11-8 through 11-12-81
51273 10-19-81 / Defense Science Board Task Force on Very High Speed Integrated Circuits, Palo Alto, Calif. (closed), 11-12-81
49181 10-6-81 / DOD Advisory Group on Electronic Devices, Working Group A (Mainly Microwave Devices), Arlington, Va. (closed), 11-9 and 11-10-81
46987 9-23-81 / Wage Committee, Washington, D.C. (closed), 11-10-81
- ENERGY DEPARTMENT**
52219 10-26-81 / National Petroleum Council, Arctic Oil and Gas Resources Subcommittee, Chicago, Ill. (open) 11-10-81

FEDERAL COMMUNICATIONS COMMISSION

- 47862 9-30-81 / North Atlantic Consultative Working Group (NACWG), Montreal, Canada (open), 11-10 through 11-13-81

FINE ARTS COMMISSION

- 52410 10-27-81 / Meeting, Washington, D.C. (open), 11-10-81

HEALTH AND HUMAN SERVICES DEPARTMENT

- 51645 10-21-81 / Interagency Committee on Federal Activities for Alcohol Abuse and Alcoholism, Washington, D.C. (open), 11-10-81

National Institutes of Health—

- 47304 9-25-81 / Biomedical Library Review Committee, 11-9 and 11-10-81; Medical Library Resource Improvement Grant Applications Review Subcommittee, Bethesda, Md. (partially open), 11-11-81

- 45200 9-10-81 / Board of Counselors, National Institute of Neurological and Communicative Disorders and Stroke, Bethesda, Md. (partially open), 11-12 and 11-13-81

- 45817 9-15-81 / Cancer Clinical Investigation Review Committee, Bethesda, Md. (partially open), 11-9 and 11-10-81

- 50419 10-13-81 / Cancer Special Program Advisory Committee, Anaheim, Calif. (partially open), 11-9 and 11-10-81

- 47304 9-25-81 / General Research Support Review Committee, Bethesda, Md. (partially open), 11-12 and 11-13-81

- 43884 9-1-81 / Mammalian Genetics Study Section, Georgetown, D.C. (partially open), 11-12 through 11-14-81

- 47305 9-25-81 / Minority Access to Research Careers Review Committee, Bethesda, Md. (partially open), 11-9 and 11-10-81

- 51651 10-21-81 / National Institute of Dental Research Special Grants Review Committee, Bethesda, Md. (partially open), 11-9-81

- 39476 8-3-81 / Population Research Committee, National Institute of Child Health and Human Development, Bethesda, Md. (partially open), 11-12 and 11-13-81

INTERIOR DEPARTMENT**Indian Affairs Bureau—**

- 53528 10-29-81 / San Juan River Coal Region, wilderness environmental impact statement, Albuquerque, N. Mex. (open), 11-13-81

Land Management Bureau—

- 50420 10-13-81 / California Desert District Multiple-Use Advisory Council, Riverside, Calif. (open), 11-13 and 11-14-81

- 50155 10-9-81 / Carson City District Advisory Council, Carson City, Nev. (open), 11-13 and 11-14-81

- 50615 10-14-81 / Moab District Advisory Council, Moab, Utah (open), 11-12 and 11-13-81

- 51047 10-16-81 / Moab District Advisory Council, Moab, Utah (open), 11-12 and 11-13-81

- 50155, 50858 10-9 and 10-15-81 / Rawlins District Grazing Advisory Board, Lander, Wyo. (open), 11-10-81

- 48778 10-2-81 / Winnemucca District Advisory Council, Winnemucca, Nev. (open), 11-13-81

- 49214 10-8-81 / Worland District Grazing Advisory Board, Worland, Wyo. (open), 11-9-81

National Park Service—

- 48791 10-2-81 / Chattahoochee River National Recreation Area, General Management Plan, Atlanta and Suwanee, Ga. (open), 11-9, 11-10, and 11-12-81

- 52041 10-23-81 / San Antonio Missions Advisory Commission, San Antonio, Tex. (open), 11-10-81

Office of the Secretary—

- 51652 10-21-81 / Alaska Land Use Council, Anchorage, Alaska, 11-13-81

NATIONAL SCIENCE FOUNDATION

- 52462 10-27-81 / Engineering Advisory Committee, Civil and Environmental Engineering Subcommittee, Washington, D.C. (partially open), 11-12 and 11-13-81

- 52462 10-27-81 / Physiology, Cellular and Molecular Biology Advisory Committee, Biological Instrumentation Subcommittee, Washington, D.C. (closed), 11-12 and 11-13-81

- 52461 10-27-81 / Social and Economic Science Advisory Committee, Economics Subcommittee, Washington, D.C. (closed) 11-13 and 11-14-81

NUCLEAR REGULATORY COMMISSION

- 53819 10-30-81 / Reactor Safeguards Advisory Committee, Washington, D.C. (partially open), 11-12 through 11-14-81

- 51827 10-22-81 / Reactor Safeguards Advisory Committee, Comanche Peak Units 1 and 2 Subcommittee, Washington, D.C. (partially open), 11-11-81

- 52252 10-26-81 / Reactor Safeguards Advisory Committee, Regulatory Activities Subcommittee, Washington, D.C. (open) 11-11-81

PRESIDENTIAL ADVISORY COMMITTEE ON FEDERALISM

- 53243 12-28-81 / Regulatory and Judicial Reform Subcommittee, Washington, D.C. (open), 11-12-81

STATE DEPARTMENT

- 51107 10-16-81 / Historical Diplomatic Documentation Advisory Committee, Washington, D.C. (partially open), 11-13-81

TRADE REPRESENTATIVE, OFFICE OF UNITED STATES

- 45725 9-14-81 / International Sugar Organization, Council, Washington, D.C.; 11-9 through 11-20-81

TRANSPORTATION DEPARTMENT**Federal Railroad Administration—**

- 39461 8-3-81 / Railroads General Safety Inquiry, San Francisco, Calif., 11-9 and 11-10-81

National Highway Traffic Safety Administration—

- 48958 10-5-81 / Bumper standards, Washington, D.C. (open), 11-12-81 (also 11-13-81 if necessary)

- 7123 1-22-81 / Safety Standards, International Harmonization; Group of Rapporteurs on Safety Provisions for Motor Coaches and Buses, Twenty-sixth Session; Edinburgh, Scotland; 11-10 through 11-13-81

VETERANS ADMINISTRATION

- 46463 9-18-81 / Wage Committee, Washington, D.C. (closed), 11-12-81

Next Week's Hearings**AGRICULTURE DEPARTMENT****Animal and Plant Health Inspection Service—**

- 53185 10-28-81 / Importation of certain articles of *Hyacinthus* spp., College Park, Md., 11-12-81

ENERGY DEPARTMENT**Economic Regulatory Administration—**

- 49909 10-8-81 / Import and export of natural gas, establishing new administration procedures, Washington, D.C., 11-12-81

[See also 46 FR 44701, 9-4-81]

GOLD COMMISSION

- 52228 10-26-81 / Study of U.S. policy with respect to the role of gold in the domestic and international monetary system, Washington, D.C., 11-12 and 11-13-81

INTERIOR DEPARTMENT

- 50984 Surface Mining Reclamation and Enforcement Office—
10-16-81 / Montana permanent regulatory program,
Helena, Mont., 11-10-81

UPPER MISSISSIPPI RIVER BASIN COMMISSION

- 47170 9-24-81 / Upper Mississippi River System draftmaster
plan and environment impact statement, Roseville, Minn.,
11-9-81

TRANSPORTATION DEPARTMENT**Federal Railroad Administration—**

- 49925 10-8-81 / Small railroads; general safety inquiry, San
Francisco, Calif., 11-9-81

TREASURY DEPARTMENT**Internal Revenue Service—**

- 50015 10-8-81 / Income tax; industrial development bonds;
definition of the term "issue", Washington, D.C., 11-12-81

VETERANS ADMINISTRATION

- 49702 10-7-81 / Educational Allowances Station Committee,
Nashville, Tenn., 11-9-81

- 52462 10-27-81 / NSF—Earth Sciences (Geology, Geophysics,
Geochemistry, and Petrology Subcommittees) Advisory
Committee, Washington, D.C. (closed), 11-10 and 11-20-81

- 52461 10-27-81 / NSF—Economics Subcommittee of the Social
and Economic Science Advisory Committee, Washington,
D.C. (closed), 11-13 and 11-14-81

- 52461 10-27-81 / NSF—Sociology Subcommittee of the Social
and Economic Science Advisory Committee, Washington,
D.C. (closed) 11-19 and 11-20-81

- 52461 10-27-81 / NSF—Special Research Equipment Advisory
Committee (2-year and 4-year colleges) (Chemistry
Subcommittee), Washington, D.C. (closed), 11-19 and
11-20-81

OTHER ITEMS OF INTEREST

- 52442 10-27-81 / Labor/ETA—Migrant and Seasonal
Farmworker Programs; designation of potential grantees,
conditional designations, deferred designations and
nonselection of applicants for fiscal year 1982

List of Public Laws

Note: No public bills which have become law were received by the
Office of the Federal Register for inclusion in today's List of Public
Laws.

Last Listing October 29, 1981

Documents Relating to Federal Grant Programs

This is a list of documents relating to Federal grant programs which
were published in the **Federal Register** during the previous week.

DEADLINES FOR COMMENTS ON PROPOSED RULES

- 53362 10-28-81 / ED—Library Career Training Program
provisions (Title II-B HEA); comments by 12-14-81
- 53370 10-28-81 / ED—Strengthening Research Library Resources
program provisions (Title II-C HEA); comments by
12-14-81

APPLICATIONS DEADLINES

- 53278 10-28-81 / ED—Direct grant programs, fiscal year 1982;
closing dates 11-8-81 through 4-20-82 inclusive

MEETINGS

- 53487 10-29-81 / ED—Continuing Education National Advisory
Council; Washington, D.C. (open), 11-18 through 11-20-81
- 53525 10-29-81 / HHS/ADAMHA—Mental Health Small Grant
Review Committee, Washington, D.C. (partially open),
12-3 through 12-5-81
- 52460 10-27-81 / NFAH—Humanities Panel, Washington, D.C.
(closed), 11-18 and 11-19-81
- 53236 10-28-81 / NFAH—National Council on The Arts,
Washington, D.C. (partially open), 11-13 through 11-15-81
- 52460 10-27-81 / NFAH—National Council on The Humanities,
Washington, D.C. (partially open), 11-12 and 11-13-81
- 52460 10-27-81 / NFAH—Visual Arts Panel (Print/Drawing/
Artist Books), Washington, D.C. (closed), 11-9 and
11-13-81
- 52462 10-27-81 / NSF—Biological Instrumentation Subcommittee
of the Physiology, Cellular and Molecular Biology
Subcommittee, Washington, D.C. (closed), 11-12 and
11-13-81
- 52462 10-27-81 / NSF—Civil and Environmental Engineering
Subcommittee, Washington, D.C. (partially open), 11-12
and 11-13-81