

OK Federal Register

Friday
June 11, 1982

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- Animal Drugs**
Food and Drug Administration
- Civil Rights**
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- Coal Mining**
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Food and Nutrition Service
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General Services Administration
- Intergovernmental Relations**
Occupational Safety and Health Administration

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Agricultural Marketing Service

Natural Gas

Agriculture Department

Old Age, Survivors, and Disability Insurance

Social Security Administration

Radio Broadcasting

Federal Communications Commission

Railroads

Interstate Commerce Commission

Securities

Securities and Exchange Commission

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THE STATE OF NEW YORK

IN SENATE, January 15, 1877.

REPORT OF THE COMMISSIONERS OF THE LAND OFFICE, IN ANSWER TO A RESOLUTION PASSED BY THE SENATE, APRIL 18, 1876.

Table with multiple columns and rows, containing numerical data and text. The text is extremely faint and illegible.

Rules and Regulations

Federal Register

Vol. 47, No. 113

Friday, June 11, 1982

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 910

[Lemon Reg. 363]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona lemons that may be shipped to market during the period June 13-19, 1982. Such action is needed to provide for orderly marketing of fresh lemons for this period due to the marketing situation confronting the lemon industry.

EFFECTIVE DATE: June 13, 1982.

FOR FURTHER INFORMATION CONTACT:

William J. Doyle, Acting Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202-447-5975.

SUPPLEMENTARY INFORMATION: This rule has been reviewed under Secretary's Memorandum 1512-1 and Executive Order 12291 and has been designated a "non-major" rule. This regulation is issued under the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The action is based upon the recommendations and information submitted by the Lemon Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the act.

This action is consistent with the marketing policy for 1981-82. The marketing policy was recommended by

the committee following discussion at a public meeting on July 7, 1981. The committee met again publicly on June 8, 1982, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports the demand for lemons is good.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the Federal Register (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared purposes of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 910

Marketing agreements and orders, California, Arizona, Lemons.

Section 910.663 is added as follows:

§ 910.663 Lemon Regulation 363.

The quantity of lemons grown in California and Arizona which may be handled during the period June 13, 1982, through June 19, 1982, is established at 275,000 cartons.

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

Dated: June 10, 1982.

D. S. Kuryloski,

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

[FR Doc. 82-16037 Filed 6-10-82; 11:46 am]

BILLING CODE 3410-02-M

Office of the Secretary

7 CFR Part 2900

Certification of Essential Agricultural Uses and Requirements—Natural Gas Policy Act of 1978

AGENCY: Agriculture Department.

ACTION: Final rule.

SUMMARY: The Department of Agriculture hereby amends its regulations certifying essential agricultural uses and requirements under the Natural Gas Policy Act of 1978 (NGPA). This amendment adds monosodium glutamate to the list of essential agricultural uses certified by the Secretary of Agriculture.

EFFECTIVE DATE: This amendment will become effective on June 11, 1982.

FOR FURTHER INFORMATION CONTACT: Earle E. Gavett, Acting Director, Office of Energy, USDA, 14th and Independence Avenue, SW., Washington, D.C. 20250; Telephone Number: 202-447-2634.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1512-1 which implements Executive Order 12291 and has been determined to be "nonmajor".

Under Section 401 of the NGPA, the Secretary of Agriculture is required to certify to the Secretary of Energy and the Federal Energy Regulatory Commission (FERC) essential agricultural uses of natural gas and the amounts of natural gas for such essential agricultural uses necessary for full food and fiber production. A final rule containing such certification was issued by the Secretary of Agriculture on May 17, 1979 (44 FR 28782).

The Secretary of Energy and the FERC have incorporated the USDA certification in their rules promulgating and implementing agricultural priority in curtailment plans of interstate pipelines in accordance with the NGPA.

In accordance with 7 CFR 2901.5(b), on March 2, 1982, the Acting Director, Office of Energy, USDA issued a proposed rule which would amend USDA certification of essential agricultural uses and requirements to include under 7 CFR 2900.3, SIC Code 2869—Industrial Organic Chemicals (Monosodium Glutamate Only) as an essential agricultural use. The proposed amendment was in response to a petition submitted by Stauffer Chemical Company.

Stauffer proposed that the manufacture of monosodium glutamate, classified in SIC Code 2869, Industrial Organic Chemicals, be certified as an essential agricultural use of natural gas

under Section 401(f)(1)(A)—that is, to the extent of all natural gas used in its manufacture whether for process, feedstock, or boiler fuel uses. Currently, monosodium glutamate manufacture is certified under Section 401(f)(1)(B) which gives priority for only the process and feedstock natural gas requirements. 44 FR 28786.

The public was invited to participate in any aspect of the proposed amendment by submitting data, views, or arguments with respect to the inclusion of monosodium glutamate in USDA's certification as an essential agricultural use. Thirty-four comments were received from the public. There were no requests that USDA convene a public hearing.

All the comments received from the public went to the merits of monosodium glutamate in the diet and not to the issue of this rulemaking, namely, whether the production of monosodium glutamate is food processing under the NGPA. Because the NGPA requires that all food processing be classified under Section 401(f)(1)(A), and does not address the relative merits of one food product over another, these comments are not germane to this rulemaking. The USDA based its determination on information provided in the petition for amendment and other relevant information, including its treatment of other analogous functions in its certification of "essential agricultural uses".

Section 401(f)(1) of the NGPA states that "essential agricultural use", when used with respect to natural gas, means any use of natural gas (A) for * * * food processing, * * * which the Secretary of Agriculture determines is necessary for full food and fiber production."

Monosodium glutamate has as its basic material, common molasses which is derived from refining sugar beets or sugar cane. The manufacture of such molasses is classified under the major heading of "food" in SIC Codes 2063 and 2061. Sugar beet molasses, sometimes blended with sugar cane molasses, is combined with lesser amounts of trace nutrients and ammonia, and is fermented in large tanks by introduction of the bacteria *Corynebacterium lilium*. When the fermentation is completed, the resulting culture is harvested. After the bacterial cell and proteins are removed, the remaining broth is evaporated by the use of steam and further refined. Acid is added, and crystallized crude glutamic acid, an amino acid, is produced. This substance is separated by filtration, dissolved, and converted into MSG by neutralization with sodium hydroxide. The resulting solution is decolorized and then crystallized, dried, screened, and

packed for shipment. All chemicals used in the process are of food-grade quality, and the Food and Drug Administration inspects the facility for adherence to government regulations for the production of food and food additives. MSG is sold to food processors (SIC major group 20) who use it in canned and preserved foods (SIC subgroup 203) and also is sold in grocery stores where it is generally grouped with salt or spices as a flavor enhancer.

There is a single monosodium glutamate plant in the United States, operated by Stauffer in San Jose, California. The plant operates 24 hours a day, 365 days a year and uses an average of 8,000 Mcf of natural gas per day, 6,500 Mcf of which is used as boiler fuel. Inclusion of the boiler fuel use to the certified natural gas uses will add about 2.4 billion cubic feet to the total agricultural gas use of 1,392 billion cubic feet, less than one-tenth of 1 percent of the interstate gas component identified as essential agricultural use in the May 14, 1979 combined Environmental Impact Statement and Final Impact Statement prepared by the Department of Agriculture in connection with the Essential Agricultural Uses and Requirements certification rule (7 CFR Part 2900). A copy of the Final Statement is available for inspection and copying in Room 144-E, Administration Building, USDA, 14th and Independence Ave. SW., Washington, D.C. 20250.

Based on the foregoing, USDA has determined that the use of natural gas in the production of monosodium glutamate is a use of natural gas for food processing which is necessary for full food and fiber production.

List of Subjects in 7 CFR Part 2900

Agricultural commodities, Alcohol and alcoholic beverages, Animals, Chemicals, Crop services (SIC Code 072), Farm-product raw materials—grain (SIC Code 5153), Fertilizers, Food stores (SIC Code 54) Foods, Forests and forest products, Groceries and related products (SIC Code 514), Irrigation, Leather tanning and finishing (SIC Code 3111), Natural gas, Packaging and containers, Pesticides and pests, Textiles, Warehouses.

PART 2900—ESSENTIAL AGRICULTURAL USES AND VOLUMETRIC REQUIREMENTS—NATURAL GAS POLICY ACT

§ 2900.3 [Amended]

Accordingly, Chapter XXIX of Title 7 § 2900.3 Code of Federal Regulations is amended by adding at the end of the "Food and Natural Fiber Processing—Food" list: 2869—Industrial Organic

Chemicals (Monosodium Glutamate Only).

(Pub. L. 95-621, November 8, 1979, 92 Stat. 3350.15, 15 U.S.C. 3301 *et seq.*)

Dated: May 28, 1982.

John Block,

Secretary of Agriculture.

[FR Doc. 82-15805 Filed 6-10-82; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 444

[Docket No. 79N-0341; DESI Nos. 8615, 9152, 9188, and 50168]

Oligosaccharide, Peptide, and Certain Other Antibiotic Drugs

Corrections

In FR Doc. 82-14405 appearing on page 23440 in the issue for Friday, May 28, 1982, make the following changes:

(1) On page 23440, second column, under DATES, first paragraph, seventh line, "444.343k" should read "444.342k".

(2) On page 23441, third column, in the heading for § 444.342j, second line, "sufate" should read "sulfate".

(3) On page 23442, first column, in the heading for § 444.342k, third line, "Onitment" should read "Ointment"; second column, § 444.342k (a)(3)(ii)(c), subparagraph "(2)" should read "(2)".

BILLING CODE 1505-01-M

21 CFR Parts 520 and 556

New Animal Drugs; Sulfamethazine Oblets; Sulfamethazine Sodium Soluble Powder and Drinking Water Solution

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of supplemental new animal drug applications (NADA's) filed by American Cyanamid Co., providing for safe and effective use of sulfamethazine oblets in horses, beef cattle, and nonlactating dairy cattle and sulfamethazine sodium soluble powder and drinking water solution for treating chickens, turkeys, swine, beef cattle, and nonlactating dairy cattle for certain infections caused by sulfamethazine-sensitive organisms. The regulations are further amended to indicate those conditions of use of the products for

which applications for approval of identical or similar products need not include certain types of effectiveness data, and to establish a tolerance for negligible residues of sulfamethazine in the uncooked edible tissues of chickens and turkeys.

EFFECTIVE DATE: June 11, 1982.

FOR FURTHER INFORMATION CONTACT:

Emilio E. Viera, Bureau of Veterinary Medicine (HFV-138), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857; 301-443-3410.

SUPPLEMENTARY INFORMATION:

American Cyanamid Co., Berdan Ave., Wayne, NJ 07470, filed 3 supplemental NADA's providing for the safe and effective use of sulfamethazine and sulfamethazine sodium in cattle, horses, swine, chickens, and turkeys against certain diseases caused by organisms susceptible to sulfamethazine as follows:

NADA 122-271, sulfamethazine oblets containing 2.5 grams and 5 grams of sulfamethazine for calves and foals, sulfamethazine oblets containing 15 grams of sulfamethazine for beef cattle, nonlactating dairy cattle, and horses.

NADA 122-272, sulfamethazine sodium soluble powder, containing 100 percent sulfamethazine sodium, for chickens, turkeys, swine, beef cattle, and nonlactating dairy cattle. The product is administered in poultry drinking water and in drinking water or as a drench in cattle and swine.

NADA 6-084, sulfamethazine sodium drinking water solution, containing 12.5 percent sulfamethazine sodium for use in drinking water for swine, chickens, turkeys, beef cattle, and nonlactating dairy cattle.

The products were the subject of a National Academy of Sciences/National Research Council (NAS/NRC) Drug Efficacy Study Group evaluation published in the *Federal Register* of July 17, 1970 (35 FR 11532). NAS/NRC found, and FDA concurred, that the products were probably effective for treatment of infectious diseases caused by sulfamethazine-sensitive organisms.

The Academy stated: (1) Each disease claim should be properly qualified as "appropriate for use in (name of disease) caused by pathogens sensitive to (name of drug)"; if the disease claim cannot be so qualified the claim must be dropped; (2) the claim for coccidiosis should be qualified by listing the species for each respective host; (3) claims made regarding "for prevention" or "to prevent" should be replaced with "as an aid in the control of" or "to aid in the control of"; (4) the labels should warn that treated animals must actually consume enough medicated water or

medicated feed to provide a therapeutic dose under the conditions that prevail; as a precaution, labels should state the desired oral dose per unit of animal weight per day for each species as a guide to effective use of the preparations in drinking water or feed; (5) there is need for documentation of blood and tissue concentrations of the drug when used at the recommended dosage levels in order to establish efficacy of the bacterial disease claims; and (6) evidence should be furnished to demonstrate that the oblets disintegrate in the gastrointestinal tract of the medicated species to produce the desired therapeutic effect.

The Food and Drug Administration concurs with the Academy's findings.

Subsequent to review by NAS/NRC, the firm complied with the recommendations of the Academy to enable FDA to classify the products as effective. The firm also submitted literature references in support of its supplemental application. Based on the data and information submitted, the NADA's are approved and the regulations are amended accordingly to provide for use of the products.

The sponsor also submitted acute toxicity data to support a tolerance of 0.1 part per million for negligible residues in tissues. Also, the regulations are amended by revising § 556.670 to provide a tolerance of 0.1 part per million for negligible residues of sulfamethazine in the uncooked edible tissues of chickens and turkeys. Although this drug has been indicated for use in chickens and turkeys for many years, a residue tolerance has not been listed in § 556.670. In addition, the firm submitted data to support the withdrawal periods that are listed in the amended regulations.

The evaluation was published to inform NADA holders of the findings of the NAS/NRC and FDA and to inform all interested persons that such articles may be marketed, provided they are the subject of approved NADA's and otherwise comply with the requirements of the Federal Food, Drug, and Cosmetic Act. NADA's that pertain to identical products and reflect those conditions of use as set forth in this regulation do not require efficacy data as specified by § 514.1(b)(8)(ii) or § 514.111(a)(5)(ii)(a)(4) of the animal drug regulations. In lieu of such data, approval may require bioequivalency or similar data as suggested in the guideline for submitting NADA's for NAS/NRC-reviewed generic drugs. The guideline is available from the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD

20857. Those conditions of use are identified in this regulation.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (address above), from 9 a.m. to 4 p.m., Monday through Friday.

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

This action is governed by the provisions of 5 U.S.C. 556 and 557 and is therefore excluded from Executive Order 12291 by section 1(a)(1) of the Order.

List of Subjects

21 CFR Part 520

Animal drugs, Oral use.

21 CFR Part 556

Animal drugs, Foods, Residues.

**PART 520—ORAL DOSAGE FORM
NEW ANIMAL DRUGS NOT SUBJECT
TO CERTIFICATION**

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Parts 520 and 556 are amended as follows:

1. Part 520 is amended by adding new §§ 520.2260a, 520.2261, 520.2261a and 520.2261b to read as follows:

§ 520.2260a Sulfamethazine oblets.

(a) *Sponsor.* See No. 010042 in § 510.600(c) of this chapter for use of 2.5-, 5-, or 15-gram sulfamethazine oblet.

(b) *Related tolerances in edible products.* See § 556.670 of this chapter.

(c) *Conditions of use—(1) Amount.* Administer as a single dose 100 milligrams of sulfamethazine per pound of body weight the first day and 50 milligrams per pound of body weight on each following day.

(2) *Indications for use.* For treatment of diseases caused by organisms sensitive to sulfamethazine.

(i) *Beef cattle and nonlactating dairy cattle.* Treatment of bacterial pneumonia and bovine respiratory disease complex (shipping fever complex) (*Pasteurella* spp.), colibacillosis (bacterial scours) (*Escherichia coli*), necrotic pododermatitis (foot rot) (*Fusobacterium necrophorum*), calf diphtheria (*Fusobacterium necrophorum*), acute mastitis (*Streptococcus* spp.), acute metritis (*Streptococcus* spp.), coccidiosis (*Eimeria bovis*, *Eimeria zurnii*).

(ii) *Horses.* Treatment of bacterial pneumonia (secondary infections associated with *Pasteurella* spp.), strangles (*Streptococcus equi*), and bacterial enteritis (*Escherichia coli*).

(3) *Limitations.* Administer daily until animal's temperature and appearance are normal. If symptoms persist after using for 2 or 3 days consult a veterinarian. Fluid intake must be adequate. Treatment should continue 24 to 48 hours beyond the remission of disease symptoms, but not to exceed 5 consecutive days. Follow dosages carefully. Not for use in lactating dairy animals. Do not treat cattle within 10 days of slaughter. Not to be used in horses intended for food.

(d) *NAS/NRC status.* The conditions of use specified in this section have been reviewed by NAS/NRC and are found effective. Applications for these uses need not include effectiveness data as specified by § 514.111 of this chapter, but may require bioequivalency and safety information.

§ 520.2261 Sulfamethazine sodium oral dosage forms.

§ 520.2261a Sulfamethazine sodium drinking water solution.

(a) *Sponsor.* See No. 010042 in § 510.600(c) of this chapter for use of a 12.5 percent sulfamethazine sodium solution.

(b) *Related tolerances in edible products.* See § 556.670 of this chapter.

(c) *Conditions of use.*—(1) *Amount.* Administer in drinking water to provide: Cattle and swine 12.5 milligrams of sulfamethazine sodium per pound of body weight per day on the first day and 56.25 milligrams per pound of body weight on subsequent days; Chickens, 61 to 89 milligrams of sulfamethazine sodium per pound of body weight per day, and turkeys 53 to 130 milligrams of sulfamethazine sodium per pound of body weight per day, depending upon the dosage, age, and class of chickens or turkeys, ambient temperature, and other factors.

(2) *Indications for use.* For treatment and control of diseases caused by organisms sensitive to sulfamethazine.

(i) *Beef and nonlactating dairy cattle.* Treatment of bacterial pneumonia and bovine respiratory disease complex (shipping fever complex) (*Pasteurella* spp.), colibacillosis (bacterial scours) (*Escherichia coli*), necrotic pododermatitis (foot rot) (*Fusobacterium necrophorum*), calf diphtheria (*Fusobacterium necrophorum*), acute mastitis (*Streptococcus* spp.), and acute metritis (*Streptococcus* spp.).

(ii) *Swine.* Treatment of porcine colibacillosis (bacterial scours) (*Escherichia coli*), and bacterial pneumonia (*Pasteurella* spp.).

(iii) *Chickens and turkeys.* In chickens for control of infectious coryza (*Haemophilus gallinarum*), coccidiosis (*Eimeria tenella*, *Eimeria necatrix*), acute fowl cholera (*Pasteurella multocida*), and pullorum disease (*Salmonella pullorum*). In turkeys for control of coccidiosis (*Eimeria meleagriditis*, *Eimeria adenoides*). Medicate as follows: Infectious coryza in chickens, medicate for 2 consecutive days; acute fowl cholera and pullorum disease, in chickens, medicate for 6 consecutive days; coccidiosis, in chickens and turkeys, medicate as in paragraph (c) of this section, then reduce amount of medication to one-half for 4 additional days.

(3) *Limitations.* Add the required dose to that amount of water that will be consumed in 1 day. Consumption should be carefully checked. Have only medicated water available during treatment. Withdraw medication from cattle, chickens, and turkeys 10 days prior to slaughter for food. Withdraw medication from swine 15 days before slaughter for food. Not for use in lactating dairy cattle. Do not medicate chickens or turkeys producing eggs for human consumption. Treatment of all diseases should be instituted early. Treatment should continue 24 to 48 hours beyond the remission of disease symptoms, but not to exceed a total of 5 consecutive days in cattle or swine. Medicated cattle, swine, chickens, and turkeys must actually consume enough medicated water which provides the recommended dosages.

(d) *NAS/NRC status.* The conditions of use specified in this section have been reviewed by NAS/NRC and are found effective. Applications for these uses need not include effectiveness data as specified by § 514.111 of this chapter, but may require bioequivalency and safety information.

§ 520.2261b Sulfamethazine sodium soluble powder.

(a) *Sponsor.* See No. 010042 in § 510.600(c) of this chapter for use of a soluble powder composed of 100 percent sulfamethazine sodium.

(b) *Related tolerances in edible products.* See § 556.670 of this chapter.

(c) *Conditions of use.*—(1) *Amount.* Administer in drinking water to provide: Chickens 56 to 85 milligrams of sulfamethazine sodium per pound of body weight per day; turkeys 50 to 124 milligrams of sulfamethazine sodium per pound of body weight per day; depending upon the dosage, age, and class of chickens or turkeys, ambient temperature, and other factors. Administer to cattle and swine in drinking water, or as a drench, to provide 108 milligrams of sulfamethazine sodium per pound of body weight on the first day and 54 milligrams of sulfamethazine sodium per pound of body weight per day on the second, third, and fourth days of administration.

(2) *Indications for use.* For treatment and control of disease caused by organisms sensitive to sulfamethazine.

(i) *Beef and nonlactating dairy cattle.* Treatment of bacterial pneumonia and bovine respiratory disease complex (shipping fever complex) (*Pasteurella* spp.), colibacillosis (bacterial scours) (*Escherichia coli*), necrotic pododermatitis (foot rot) (*Fusobacterium necrophorum*), calf diphtheria (*Fusobacterium necrophorum*), acute mastitis (*Streptococcus* spp.), and acute metritis (*Streptococcus* spp.).

(ii) *Swine.* Treatment of porcine colibacillosis (bacterial scours) (*Escherichia coli*), and bacterial pneumonia (*Pasteurella* spp.).

(iii) *Chickens and turkeys.* In chickens for control of infectious coryza (*Haemophilus gallinarum*), coccidiosis (*Eimeria tenella*, *Eimeria necatrix*), acute fowl cholera (*Pasteurella multocida*), and pullorum disease (*Salmonella pullorum*). In turkeys for control of coccidiosis (*Eimeria meleagriditis*, *Eimeria adenoides*). Medicate as follows: Infectious coryza in chickens, medicate for 2 consecutive days; acute fowl cholera and pullorum disease in chickens, medicate for 6 consecutive days; coccidiosis in chickens and turkeys, medicate as in paragraph (c) of this section for 2 days, then reduce drug concentration to one-half for 4 additional days.

(3) *Limitations.* Add the required dose to that amount of water that will be consumed in 1 day. Consumption should be carefully checked. Have only

medicated water available during treatment. Withdraw medication from cattle, chickens, and turkeys 10 days prior to slaughter for food. Withdraw medication from swine 15 days prior to slaughter for food. Not for use in lactating dairy animals. Do not medicate chickens or turkeys producing eggs for human consumption. Treatment of all diseases should be instituted early. Treatment should continue 24 to 48 hours beyond the remission of disease symptoms, but not to exceed a total of 5 consecutive days in cattle or swine. Medicated cattle, swine, chickens, and turkeys must actually consume enough medicated water which provides the recommended dosages.

(d) *NAS/NRC status.* The conditions of use specified in this section have been reviewed by NAS/NRC and are found effective. Applications for these uses need not include effectiveness data as specified by § 514.111 of this chapter, but may require bioequivalency and safety information.

PART 556—TOLERANCES FOR RESIDUES OF NEW ANIMAL DRUGS IN FOOD

2. Part 556 is amended by revising § 556.670 to read as follows:

§ 556.670 Sulfamethazine.

A tolerance of 0.1 part per million is established for negligible residues of sulfamethazine in the uncooked edible tissues of chickens, turkeys, cattle, and swine.

Effective date. This amendment is effective June 11, 1982.

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

Dated: June 4, 1982.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc. 82-15827 Filed 6-10-82; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

Sources of Standards; Correction

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Final rule; correction.

SUMMARY: This document corrects the table in 29 CFR 1910.99 which lists the sources of various OSHA standards in Subpart G. Through a typographical error, the source of § 1910.94(a) was listed incorrectly in the May 29, 1971, Federal Register when the regulations in

Subpart G were first published as part of the OSHA General Industry Standards. (36 FR 10466, 10523).

The table currently cites American National Standards Institute (ANSI) standard N2.3-1967 with the incorrect title, "Immediate and Safe Practices, (sic) of Abrasive Blasting Operations," as the source of § 1910.94(a). The correct citation, however, should be ANSI Z9.4-1968, "Ventilation and Safe Practices of Abrasive Blasting Operations."

FOR FURTHER INFORMATION CONTACT: Mr. James Foster, Office of Information and Consumer Affairs, Occupational Safety and Health Administration, Room N3641, 200 Constitution Avenue, NW., Washington, D.C. 20210, (202) 523-8148.

Accordingly, the source standard for § 1910.94(a) listed in 29 CFR 1910.99 is corrected to read as follows:

§ 1910.99 Sources of standards.

Section	Source
1910.94(a).....	ANSI Z9.4-1968, Ventilation and Safe Practices of Abrasive Blasting Operations.

* * * * *

Dated: May 31, 1982.

Thorne G. Auchter,

Assistant Secretary, Occupational Safety and Health Administration.

[FR Doc. 82-15881 Filed 6-10-82; 8:45 am]

BILLING CODE 4510-26-M

29 CFR Part 1952

Arizona, Indiana, Minnesota, Iowa, Nevada, New Mexico, Puerto Rico, Virginia, Virgin Islands, and Wyoming State Plans

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Final rule; level of federal enforcement.

SUMMARY: The Occupational Safety and Health Administration (OSHA) has determined that the State occupational safety and health programs approved under section 18 of the Occupational Safety and Health Act for the States of Arizona, Indiana, Minnesota, Iowa, Nevada, New Mexico, Puerto Rico, Virginia, the Virgin Islands, and Wyoming have been developed sufficiently to justify suspension of concurrent Federal enforcement activity. OSHA has therefore entered into operational status agreements with these States whereby concurrent Federal enforcement authority will not be initiated with regard to Federal

occupational safety and health standards in the issues covered by these State plans. OSHA is hereby amending sections of its regulations in 29 CFR Part 1952 to reflect this level of enforcement authority.

EFFECTIVE DATE: June 11, 1982.

FOR FURTHER INFORMATION CONTACT:

Veronica Allen, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue, N.W., Room N-3613, Washington, D.C. 20210; (202) 523-8081.

SUPPLEMENTARY INFORMATION:

Background

Part 1954 of Title 29, Code of Federal Regulations, sets out procedures under Section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) (hereinafter referred to as the Act) for the evaluation and monitoring of State plans which have been approved under Section 18(c) of the Act and 29 CFR Part 1902. After initial approval, but prior to final approval, Section 18(e) of the Act provides for a period of concurrent jurisdiction. Section 1954.3 of this chapter provides guidelines and procedures for the exercise of discretionary concurrent Federal enforcement authority during that period with regard to Federal standards in issues covered under an approved State plan. In determining the appropriate level of Federal enforcement, OSHA must consider the effectiveness of State enforcement and current worker protection needs in the States. If Federal monitoring shows that a State program has developed its program to a degree sufficient to justify suspension of duplicative Federal enforcement activity, regulations provide that OSHA through its Regional Administrator may enter into a procedural agreement with the State, usually referred to as an "operational status agreement," setting forth areas of Federal and State enforcement responsibility (29 CFR 1954.3(f)). Any finding of operational status, and any procedural agreement based upon such a finding must be approved by the Assistant Secretary. A State is determined to be operational under § 1954.3(b) of this chapter when it has enacted enabling legislation; promulgated State standards; achieved an adequate level of qualified personnel; and established a system for review of contested enforcement actions. In determining whether and to what extent a State plan meets the operational guidelines, the results of evaluations conducted under 29 CFR Part 1954 are also taken into consideration. Once this determination has been made, under

§ 1954.3(f) of this chapter, a notice of determination of the operational status of a State plan as described in an agreement setting forth Federal-State responsibilities is to be published in the Federal Register.

In general, these agreements provide that concurrent federal enforcement authority will not be exercised as to safety and health issues covered by the plan. Federal OSHA retains responsibility for enforcement in occupational safety and health issues not covered by the State plan (as specified in the notice of state plan approval as codified in 29 CFR Part 1952), for new Federal standards not yet promulgated by the State, and may reassume jurisdiction to assist the State in fulfilling its enforcement obligations under certain limited conditions. An operational status agreement is an administrative agreement which serves to limit discretionary enforcement activities. *General Motors Corp., Central Foundry Division*, OSHRC No. 78-2696 (Rev. Comm'n 1980); *Willamette Iron and Steel Co.*, OSHRC No. 76-1201 (Rev. Comm'n 1980). It is a procedural allocation of enforcement responsibilities that does not divest OSHA of its Federal concurrent jurisdiction as a matter of statutory law. *Id.*; *General Motors Corp., Chevrolet Motor Division*, OSHRC No. 76-5344 (Rev. Comm'n 1982). Statutory authority for concurrent Federal jurisdiction is terminated only after an 18(e) determination (final approval).

Arizona, Indiana, Minnesota, Iowa, Nevada, New Mexico, Puerto Rico, Virginia, Virgin Islands and Wyoming have been determined to have achieved operational status by:

a. Enactment of State enabling legislation which provides the necessary legal framework to bring the State Plans into conformity with the Act and 29 CFR Part 1902;

b. Promulgation of State standards comparable to Federal standards in issues covered by the State Plans;

c. Employment of a sufficient number of qualified personnel necessary for the enforcement of State standards; and

d. Provision for administrative and/or judicial review of State citations and penalties.

In addition, the States have provided under their plans for:

a. Notification to employers and employees of their rights and responsibilities under the State plan through the development and required display of a State poster;

b. Occupational accident and illness recordkeeping and reporting by employers covered under the plans;

c. Response to complaints alleging job safety and health violations, and to complaints alleging discrimination under the State Act; and

d. Adequate protection of employer and employee rights.

List of Subjects in 29 CFR Part 1952

Intergovernmental relations; Law enforcement; Occupational safety and health.

The purpose of the present rule is to amend each state's subpart in 29 CFR Part 1952 to give notice of the procedural agreements described below. These agreements were effective upon signature by the parties and further public participation would be unnecessary.

PART 1952—APPROVED STATE PLANS FOR ENFORCEMENT OF STATE STANDARDS

In accordance with the operational status agreements, the following subparts of Part 1952 are hereby amended as set forth below:

Subpart CC—Arizona

Section 1952.352 of Part 1952, Subpart CC—Arizona is revised to read as follows:

§ 1952.352 Level of federal enforcement.

Pursuant to § 1902.20(b)(1)(iii) and § 1952.3 of this chapter under which an agreement has been entered into with Arizona, effective September 14, 1981, and based on a determination that Arizona is operational in the issues covered by Arizona occupational safety and health plan, discretionary Federal enforcement authority under Section 18(e) of the Act (29 U.S.C. 667(e)) will not be initiated with regard to Federal occupational safety and health standards in issues covered under 29 CFR Part 1910, 29 CFR Part 1926, and 29 CFR Part 1928. The U.S. Department of Labor will continue to exercise authority, among other things, with regard to: complaints filed with the U.S. Department of Labor alleging discrimination under Section 11(c) of the Act (29 U.S.C. 660(c)); standards in the maritime and longshoring issues covered by 29 CFR Parts 1915, 1916, 1917, 1918 and 1919 (ship building, shipbreaking, ship repairing, longshoring and gear certification), which issues have been specifically excluded from coverage in the Arizona plan; the enforcement of occupational safety and health standards on Indian reservations; mining operations which have been specifically excluded from coverage under the plan; enforcement relating to any contractors or subcontractors on

any Federal establishment where the State cannot obtain entry; enforcement of new Federal standards until the State adopts a comparable standard; situations where the State is refused entry and is unable to obtain a warrant or enforce the right of entry; enforcement of unique and complex standards as determined by the Assistant Secretary; enforcement in situations where the State is temporarily unable to exercise its enforcement authority fully or effectively; completion of enforcement actions initiated prior to the effective date of the agreement; and investigations for the purpose of the evaluation of the Arizona plan under Sections 18(e) and (f) of the Act (29 U.S.C. 667(e) and (f)). The Regional Administrator for Occupational Safety and Health will make a prompt recommendation for the resumption of the exercise of Federal enforcement authority under Section 18(e) of the Act (29 U.S.C. 667(e)) whenever, and to the degree, necessary to assure occupational safety and health protection to employees in Arizona.

Subpart Z—Indiana

Section 1952.322 of Part 1952, Subpart Z—Indiana is revised to read as follows:

§ 1952.322 Level of federal enforcement.

Pursuant to § 1902.20(b)(1)(iii) and § 1954.3 of this chapter under which an agreement has been entered into with Indiana effective October 22, 1981, and based on a determination that Indiana is operational in the issues covered by the Indiana occupational safety and health plan, discretionary Federal enforcement authority under Section 18(e) of the Act (29 U.S.C. 667(e)) will not be initiated with regard to Federal occupational safety and health standards in issues covered under 29 CFR Part 1910, 29 CFR Part 1926, and 29 CFR Part 1928. The U.S. Department of Labor will continue to exercise authority, among other things, with regard to: complaints filed with the U.S. Department of Labor alleging discrimination under Section 11(c) of the Act (29 U.S.C. 660(c)); standards in the maritime and longshoring issues covered by 29 CFR Parts 1915, 1916, 1917, 1918, and 1919 (ship building, shipbreaking, ship repairing, longshoring and gear certification), which have been specifically excluded from coverage under the plan; enforcement relating to any contractors or subcontractors on any Federal establishment where the State cannot obtain entry; enforcement of new Federal standards until the State adopts a comparable standard; situations where the State is refused

entry and is unable to obtain a warrant or enforce the right of entry; enforcement of unique and complex standards as determined by the Assistant Secretary; situations when the State is temporarily unable to exercise its enforcement authority fully or effectively; completion of enforcement actions initiated prior to the effective date of the agreement; and investigations and inspections for the purpose of the evaluation of the Indiana plan under Sections 18 (e) and (f) of the Act (29 U.S.C. 667 (e) and (f)). The Regional Administrator for Occupational Safety and Health will make a prompt recommendation for the resumption of the exercise of Federal enforcement authority under Section 18(e) of the Act (29 U.S.C. 667(e)) whenever, and to the degree, necessary to assure occupational safety and health protection to employees in Indiana.

Subpart N—Minnesota

Section 1952.202 of Part 1952, Subpart N—Minnesota is revised to read as follows:

§ 1952.202 Level of federal enforcement.

Pursuant to § 1902.20(b)(1)(iii) and § 1954.3 of this chapter under which an agreement has been entered into with Minnesota, effective October 9, 1981, and based on a determination that Minnesota is operational in the issues covered by the Minnesota occupational safety and health plan, discretionary Federal enforcement authority under Section 18(e) of the Act (29 U.S.C. 667(e)) will not be initiated with regard to Federal occupational safety and health standards in issues covered under 29 CFR Part 1910, 29 CFR Part 1928 and 29 CFR Part 1926. The U.S. Department of Labor will continue to exercise authority, among other things, with regard to: complaints filed with the U.S. Department of Labor alleging discrimination under Section 11(c) of the Act (29 U.S.C. 660(c)); standards in the maritime and longshoring issues covered by 29 CFR Parts 1915, 1916, 1917, 1918, and 1919 (ship building, shipbreaking, ship repairing, longshoring and gear certification), which have been specifically excluded from coverage under the plan; enforcement relating to any contractors or subcontractors on any Federal establishment where the State cannot obtain entry; enforcement of new Federal standards until the State adopts comparable standards; situations where the State is refused entry and is unable to obtain a warrant or enforce the right of entry; enforcement of unique and complex standards as determined by the Assistant Secretary; situations

when the State is temporarily unable to exercise its enforcement authority fully or effectively; completion of enforcement actions initiated prior to the effective date of the agreement; and investigations and inspections for the purpose of the evaluation of the Minnesota plan under Sections 18 (e) and (f) of the Act (29 U.S.C. 667 (e) and (f)). The Regional Administrator for Occupational Safety and Health will make a prompt recommendation for the resumption of the exercise of Federal enforcement authority under Section 18(e) of the Act (29 U.S.C. 667(e)) whenever, and to the degree, necessary to assure occupational safety and health protection to employees in Minnesota.

Subpart J—Iowa

Section 1952.162 of Part 1952, Subpart J—Iowa is revised to read as follows:

§ 1952.162 Level of federal enforcement.

Pursuant to § 1902.20(b)(1)(iii) and § 1954.3 of this chapter under which an agreement has been entered into with Iowa, effective April 29, 1982, and based on a determination that Iowa is operational in the issues covered by Iowa occupational safety and health plan, discretionary Federal enforcement authority under Section 18(e) of the Act (29 U.S.C. 667(e)) will not be initiated with regard to Federal occupational safety and health standards in issues covered under 29 CFR Part 1910, 29 CFR Part 1928, and 29 CFR Part 1926. The U.S. Department of Labor will continue to exercise authority, among other things, with regard to: complaints filed with the U.S. Department of Labor alleging discrimination under Section 11(c) of the Act (29 U.S.C. 660(c)); standards in the maritime and longshoring issues covered by 29 CFR Parts 1915, 1916, 1917, 1918, and 1919 (ship building, shipbreaking, ship repairing, longshoring and gear certification), which issues have been specifically excluded from coverage in the Iowa plan; enforcement relating to any contractors or subcontractors on any Federal establishment where the State cannot obtain entry; enforcement of new Federal standards until the State adopts a comparable standard; situations where the State is refused entry and is unable to obtain a warrant or enforce the right of entry; enforcement of unique and complex standards as determined by the Assistant Secretary; enforcement in situations where the State is temporarily unable to exercise its enforcement authority fully or effectively; completion of enforcement actions initiated prior to the effective date of the agreement; and

investigations for the purpose of the evaluation of the Iowa plan under Sections 18 (e) and (f) of the Act (29 U.S.C. 667(e) and (f)). The Regional Administrator for Occupational Safety and Health will make a prompt recommendation for the resumption of the exercise of Federal enforcement authority under Section 18(e) of the Act (29 U.S.C. 667(e)) whenever, and to the degree, necessary to assure occupational safety and health protection to employees in Iowa.

Subpart W—Nevada

Section 1952.292 of Part 1952, Subpart W—Nevada is revised to read as follows:

§ 1952.292 Level of federal enforcement.

Pursuant to § 1902.20(b)(1)(iii) and § 1954.3 of this chapter under which an agreement has been entered into with Nevada, effective December 9, 1981, and based on a determination that Nevada is operational in the issues covered by the Nevada occupational safety and health plan, discretionary Federal enforcement authority under Section 18(e) of the Act (29 U.S.C. 667(e)) will not be initiated with regard to Federal occupational safety and health standards in issues covered under 29 CFR Part 1910, 29 CFR Part 1928, and 29 CFR Part 1926. The U.S. Department of Labor will continue to exercise authority, among other things, with regard to: complaints filed with the U.S. Department of Labor alleging discrimination under Section 11(c) of the Act (29 U.S.C. 660(c)); standards in the maritime and longshoring issues covered by 29 CFR Parts 1915, 1916, 1917, 1918, and 1919 (ship building, shipbreaking, ship repairing, longshoring and gear certification), which have been specifically excluded from coverage under the plan; enforcement relating to any contractors or subcontractors on any Federal establishment where the State cannot obtain entry; enforcement of new Federal standards until the State adopts a comparable standard; situations where the State is refused entry and is unable to obtain a warrant or enforce the right of entry; enforcement of unique and complex standards as determined by the Assistant Secretary; situations when the State is temporarily unable to exercise its enforcement authority fully or effectively; completion of enforcement actions initiated prior to the effective date of the agreement; and investigations and inspections for the purpose of the evaluation of the Nevada plan under Sections 18 (e) and (f) of the Act (29 U.S.C. 667 (e) and (f)). The

Regional Administrator for Occupational Safety and Health will make a prompt recommendation for the resumption of the exercise of Federal enforcement authority under Section 18(e) of the Act (29 U.S.C. 667(e)) whenever, and to the degree, necessary to assure occupational safety and health protection to employees in Nevada.

Subpart DD—New Mexico

Section 1952.362 of Part 1952, Subpart DD—New Mexico is revised to read as follows:

§ 1952.362 Level of federal enforcement.

Pursuant to § 1902.20(b)(1)(iii) and § 1954.3 of this chapter under which an agreement has been entered into with New Mexico, effective October 5, 1981, and based on a determination that New Mexico is operational in the issues covered by the New Mexico occupational safety and health plan, discretionary Federal enforcement authority under Section 18(e) of the Act (29 U.S.C. 667(e)) will not be initiated with regard to Federal occupational safety and health standards in issues covered under 29 CFR Part 1910, 29 CFR Part 1926, and 29 CFR Part 1928. The U.S. Department of Labor will continue to exercise authority, among other things, with regard to: complaints filed with the U.S. Department of Labor alleging discrimination under Section 11(c) of the Act (29 U.S.C. 660(c)); standards in the maritime and longshoring issues covered by 29 CFR Parts 1915, 1916, 1917, 1918 and 1919 (ship building, shipbreaking, ship repairing, longshoring and gear certification), which have been specifically excluded from coverage under the plan; enforcement relating to any contractors or subcontractors on any Federal establishment where the State cannot obtain entry; enforcement of new Federal standards until the State adopts a comparable standard; situations where the State is refused entry and is unable to obtain a warrant or enforce the right of entry; enforcement of unique and complex standards as determined by the Assistant Secretary; situations when the State is temporarily unable to exercise its enforcement authority fully or effectively; completion of enforcement actions initiated prior to the effective date of the agreement; and investigations and inspections for the purpose of the evaluation of the New Mexico plan under Sections 18 (e) and (f) of the Act (29 U.S.C. 667 (e) and (f)). The Regional Administrator for Occupational Safety and Health will make a prompt recommendation for the

resumption of the exercise of Federal enforcement authority under Section 18(e) of the Act (29 U.S.C. 667(e)) whenever, and to the degree, necessary to assure occupational safety and health protection to employees in New Mexico.

Subpart FF—Puerto Rico

Section 1952.382 of Part 1952, Subpart FF—Puerto Rico is revised to read as follows:

§ 1952.382 Level of federal enforcement.

Pursuant to § 1902.20(b)(1)(iii) and § 1954.3 of this chapter under which an agreement has been entered into with Puerto Rico, effective December 8, 1981, and based on a determination that Puerto Rico is operational in the issues covered by the Puerto Rico occupational safety and health plan, discretionary Federal enforcement authority under Section 18(e) of the Act (29 U.S.C. 667(e)) will not be initiated with regard to Federal occupational safety and health standards in issues covered under 29 CFR Part 1910, 29 CFR Part 1928, and 29 CFR Part 1926. The U.S. Department of Labor will continue to exercise authority, among other things, with regard to: complaints filed with the U.S. Department of Labor alleging discrimination under Section 11(c) of the Act (29 U.S.C. 660(c)); standards in the maritime and longshoring issues covered by 29 CFR Parts 1915, 1916, 1917, 1918 and 1919 (ship building, shipbreaking, ship repairing, longshoring and gear certification), which have been specifically excluded from coverage under the plan; enforcement relating to any contractors or subcontractors on any Federal establishment where the State cannot obtain entry; enforcement of new Federal standards until the State adopts a comparable standard; situations where the State is refused entry and is unable to obtain a warrant or enforce the right of entry; enforcement of unique and complex standards as determined by the Assistant Secretary; situations when the State is temporarily unable to exercise its enforcement authority fully or effectively; completion of enforcement actions initiated prior to the effective date of the agreement; and investigations and inspections for the purpose of the evaluation of the Puerto Rico plan under Sections 18 (e) and (f) of the Act (29 U.S.C. 667 (e) and (f)). The Regional Administrator for Occupational Safety and Health will make a prompt recommendation for the resumption of the exercise of Federal enforcement authority under Section 18(e) of the Act (29 U.S.C. 667(e)) whenever, and to the degree, necessary

to assure occupational safety and health protection to employees in Puerto Rico.

Subpart EE—Virginia

Section 1952.372 of Part 1952, Subpart EE—Virginia is revised to read as follows:

§ 1952.372 Level of federal enforcement.

Pursuant to § 1902(b)(1)(iii) and § 1954.3 of this chapter under which an agreement has been entered into with Virginia, effective October 1, 1981, and based on a determination that Virginia is operational in the issues covered by the Virginia occupational safety and health plan, discretionary Federal enforcement authority under Section 18(e) of the Act (29 U.S.C. 667(e)) will not be initiated with regard to Federal occupational safety and health standards in issues covered under 29 CFR Part 1910, 29 CFR Part 1928 and 29 CFR Part 1926. The U.S. Department of Labor will continue to exercise authority, among other things, with regard to: Complaints filed with the U.S. Department of Labor alleging discrimination under Section 11(c) of the Act (29 U.S.C. 660(c)); standards in the maritime and longshoring issues covered by 29 CFR Parts 1915, 1916, 1917, 1918 and 1919 (ship building, shipbreaking, ship repairing, longshoring and gear certification), which have been specifically excluded from coverage under the plan; enforcement relating to any contractors or subcontractors on any Federal establishment where the State cannot obtain entry; enforcement of new Federal standards until the State adopts a comparable standard; situations where the State is refused entry and is unable to obtain a warrant or enforce the right of entry; enforcement of unique and complex standards as determined by the Assistant Secretary; situations when the State is temporarily unable to exercise its enforcement authority fully or effectively; completion of enforcement actions initiated prior to the effective date of the agreement; and investigations and inspections for the purpose of the evaluation of the Virginia plan under Sections 18 (e) and (f) of the Act (29 U.S.C. 667 (e) and (f)). The Regional Administrator for Occupational Safety and Health will make a prompt recommendation for the resumption of the exercise of Federal enforcement authority under Section 18(e) of the Act (29 U.S.C. 667(e)) whenever, and to the degree, necessary to assure occupational safety and health protection to employees in Virginia.

Subpart S—Virgin Islands

Section 1952.252 of Part 1952, Subpart S—Virgin Islands, is revised to read as follows:

§ 1952.252 Level of federal enforcement.

Pursuant to § 1902.20(b)(1)(iii) and § 1954.3 of this chapter under which an agreement has been entered into with the Virgin Islands, effective September 9, 1981, and based on a determination that Virgin Islands is operational in the issues covered by the Virgin Islands occupational safety and health plan, discretionary Federal enforcement authority under Section 18(e) of the Act (29 U.S.C. 667(e)) will not be initiated with regard to Federal occupational safety and health standards in issues covered under 29 CFR Part 1910, 29 CFR Part 1928, and 29 CFR Part 1926 except in those issues relating to occupational health hazards and environmental control (Subparts G and U of 29 CFR Part 1910 and Subpart D of 29 CFR Part 1926, et al.). The U.S. Department of Labor will continue to exercise authority, among other things, with regard to: Complaints filed with the U.S. Department of Labor alleging discrimination under Section 11(c) of the Act (29 U.S.C. 660(c)); standards in the maritime and longshoring issues covered by 29 CFR Parts 1915, 1916, 1917, 1918 and 1919 (ship building, shipbreaking, ship repairing, longshoring and gear certification), and health which issues have been specifically excluded from coverage under the plan; enforcement relating to any contractors or subcontractors on any Federal establishment where the State cannot obtain entry; enforcement of new Federal standards until the State adopts a comparable standard; situations where the State is refused entry and is unable to obtain a warrant or enforce the right of entry; enforcement of unique and complex standards as determined by the Assistant Secretary; situations when the State is temporarily unable to exercise its enforcement authority fully or effectively; completion of enforcement actions initiated prior to the effective date of the agreement; and investigations and inspections for the purpose of the evaluation of the Virgin Islands plan under Sections 18 (e) and (f) of the Act (29 U.S.C. 667 (e) and (f)). The Regional Administrator for Occupational Safety and Health will make a prompt recommendation for the resumption of the exercise of Federal enforcement authority under Section 18(e) of the Act (29 U.S.C. 667(e)) whenever, and to the degree, necessary to assure occupational safety and health

protection to employees in the Virgin Islands.

Subpart BB—Wyoming

Section 1952.342 of Part 1952, Subpart BB—Wyoming, is revised to read as follows:

§ 1952.342 Level of federal enforcement.

Pursuant to § 1902.20(b)(1)(iii) and § 1954.3 of this chapter under which an agreement has been established with Wyoming, effective December 10, 1981, and based on a determination that Wyoming is operational in the issues covered by the Wyoming occupational health and safety plan, discretionary Federal enforcement authority under Section 18(e) of the Act (29 U.S.C. 667(e)) will not be initiated with regard to Federal occupational safety and health standards in issues covered under 29 CFR Part 1910, 29 CFR Part 1928, and 29 CFR Part 1926. The U.S. Department of Labor will continue to exercise authority, among other things, with regard to: complaints filed with the U.S. Department of Labor alleging discrimination under Section 11(c) of the Act (29 U.S.C. 660(c)); enforcement relating to any contractors or subcontractors on any Federal establishment where the State cannot obtain entry, including National Parks, Department of Defense facilities, etc.; completion of enforcement actions initiated prior to the effective date of the agreement; enforcement of new Federal standards until the State adopts a comparable standard; situations where the State is refused entry and is unable to obtain a warrant or enforce the right of entry; enforcement of unique and complex standards as determined by the Assistant Secretary; situations when the State is temporarily unable to exercise its enforcement authority fully or effectively; and investigations and inspections for the purpose of the evaluation of the Wyoming plan under Sections 18 (e) and (f) of the Act (29 U.S.C. 667 (e) and (f)). The Regional Administrator for Occupational Safety and Health will make a prompt recommendation for the resumption of the appropriate level of exercise of Federal enforcement authority under Section 18(e) of the Act (29 U.S.C. 667(e)) whenever, and to the degree, necessary to assure occupational safety and health protection to employees in Wyoming.

(Secs. 8(g)(2), 18, Pub. L. 91-596, 84 Stat. 1600, 1608; (29 U.S.C. 657(g), 667))

Signed at Washington, D.C., this 1st day of June 1982.

Thorne G. Auchter,
Assistant Secretary.

[FR Doc. 82-15991 Filed 6-10-82; 8:45 am]

BILLING CODE 4510-26-M

29 CFR Part 1952**Approval of Supplements to the Puerto Rico State Plan**

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Final rule.

SUMMARY: This notice approves various supplements to the Puerto Rico State plan including: position descriptions of State plan personnel, affirmative action plan, and staffing on-board for on-site consultation and the industrial hygiene laboratory; public information program (private and government sectors); analysis for inspection scheduling (private and government sectors); administrative regulations; field operations manuals; management information system; internal training schedule; employer/employee training schedule; implementation of public employee program; on-site consultation regulations; industrial hygiene laboratory; and, deletion of boiler and elevator inspection program from the State plan.

EFFECTIVE DATE: June 11, 1982.

FOR FURTHER INFORMATION CONTACT: John Smith/Dorothy Johnson, Project Officers, Office of State Programs, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210 (202) 523-8045.

SUPPLEMENTARY INFORMATION: Part 1953 of Title 29, Code of Federal Regulations, prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) (hereinafter called the Act) for the review of changes and progress in the development and implementation of State plans which have been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On August 30, 1977, notice was published in the Federal Register (42 FR 43628) of the approval of the Puerto Rico plan and the adoption of Subpart FF to Part 1952 containing the approval decision and describing the plan.

Description of Plan Supplements

1. *State Plan Personnel.* On March 3, 1980, Puerto Rico submitted a State plan supplement consisting of position descriptions for personnel in the State plan organization and an organizational

chart showing staffing levels in the State plan, including the staffing levels for the on-site consultation program and the industrial hygiene laboratory. Based on OSHA review comments, Puerto Rico resubmitted revised position descriptions and an updated organizational chart on September 8, 1980. Puerto Rico also submitted State-initiated plan supplements adding or deleting positions in the State plan organization as follows: January 22, 1980, added one new position (additional lawyer in the legal division); March 3, 1980, added three new positions (one industrial hygienist chief, one executive director, and one chemist assistant); July 16, 1980, added five new positions (one secretary in the Office of the Assistant Secretary, one administrative technician, one translator, and two electronic composition equipment operators); November 14, 1980, deleted six positions (six boiler and elevator program inspectors); and, February 18, 1981, added one new position (one management information system statistical clerk). In addition, this State plan supplement includes notification from the United States Office of Personnel Management, by letter of February 11, 1981, that the Puerto Rico merit system is in substantial conformity with the Standards for a Merit System of Personnel Administration, and, by letter of March 27, 1981, that the Puerto Rico Occupational Safety and Health Office has developed a satisfactory Affirmative Action Plan.

2. Public Information Program (Private and Government Sectors). On August 10, 1978, Puerto Rico submitted a State plan supplement consisting of its public information program for the private sector and on March 12, 1980, submitted its public information program for the government sector. The private sector public information program consists of kits that are distributed to employers and employees containing a copy of the State plan poster, a brief informational pamphlet about the Puerto Rico plan, a promotional letter on on-site consultation, an invitation for the training that will be offered, a list of publications available to employers and employees and information on how to obtain them, and a letter of offering to provide employers with monthly articles to be published in their internal publications. The government sector public information program consists of similar kits that are geared to public employment and are distributed to government employers and employees.

3. Inspection Scheduling (Private and Government Sectors). On June 3, 1980, Puerto Rico submitted a State plan supplement consisting of its analysis for inspection scheduling in the private sector, and on August 13, 1980, submitted its analysis for inspection scheduling in the government sector. These State plan supplements consist of ranking lists by Standard Industrial Code of establishments in Puerto Rico and the high-hazard inspection schedules by the six Puerto Rico State plan Area Offices. Puerto Rico participates in the Federal Management Information System and uses the Federal OSHA high-hazard lists to schedule its inspections. In addition, on November 26, 1979, Puerto Rico responded to changes in the Federal OSHA program for scheduling inspections by notifying OSHA of its adoption of OSHA's scheduling system for programmed inspections contained in OSHA Instruction CPL 2.25 and the requirements in OSHA instruction PAE 1.1 that at least 70% of field resources must be devoted to compliance program activity and that at least 95% of all general scheduled inspections must be in the "high-risk" sector of employment.

4. Administrative Regulations. On September 13, 1978, Puerto Rico submitted a State plan supplement consisting of its administrative regulations governing: Inspections; Citations and Proposed Penalties; Recording and Reporting Occupational Injuries and Illnesses; Rules of Practice for Variances, Limitations, Tolerances and Exemptions; Rules of Procedure for Promulgating, Modifying or Revoking Occupational Safety or Health Standards; Advisory Committees; Disclosure of Information; Discrimination Against Employees Exercising Rights under the Occupational Safety and Health Act of Puerto Rico; and, Hearing Examiner Rules of Procedure. In addition, Puerto Rico submitted revisions to its administrative regulations on October 27, 1978, March 12, 1979, and February 14, 1980. These revisions reflect both OSHA review comments and required Federal program changes. The Puerto Rico administrative regulations parallel the comparable Federal regulations.

5. Field Operations Manuals. On July 31, 1980, Puerto Rico submitted a State plan supplement consisting of its Field Operations Manuals. On February 25, 1981, in response to OSHA review comments, Puerto Rico submitted a revised State plan supplement adopting the Federal OSHA Field Operations Manuals, effective March 1, 1981, with special chapters to cover the public

sector and the hearing examiner, and an attachment to cover differences between the Federal and State programs.

6. Management Information System (MIS). On May 23, 1980, Puerto Rico submitted a State plan supplement consisting of the forms used as the basis of its MIS. The forms used by Puerto Rico parallel the Federal OSHA forms, and Puerto Rico participates in the Federal MIS.

7. Internal Training Schedule. On May 5, 1980, Puerto Rico submitted a State plan supplement consisting of a Statement of Puerto Rico's training policy, a description of the Training Unit structure and program, and training plans and schedules for safety specialists, industrial hygienists, and laboratory personnel.

8. Employer/Employee Training. On March 11, 1980, Puerto Rico submitted a State plan supplement on its employer/employee training program consisting of: a narrative of the program, a description of the methods used to reach employers and employees, a schedule of specific offerings, and a system for recording the number of employers and employees who participate. On February 13, 1981, Puerto Rico submitted a revision to this supplement consisting of an updated training schedule for the government sector and for employers and employees in high-hazard industries.

9. Public Employee Program Operational. As reported in the third evaluation report on the Puerto Rico State plan, covering the period of July through December of 1978, the public employee program was operational in October 1978.

10. On-site Consultation Program. On March 30, 1979, Puerto Rico submitted a State plan supplement on its on-site consultation program consisting of its administrative regulations governing on-site consultation. These regulations parallel the Federal regulations (29 CFR Part 1908) governing on-site consultation under the Federal OSHA 7(c)(1) program. In addition, Puerto Rico submitted a State plan supplement on May 9, 1980, consisting of a brief narrative description of the on-site consultation program, documentation of staffing for the program, the State consultation manual, and a list of equipment used for a safety and health consultation.

11. Industrial Hygiene Laboratory. On July 14, 1980, Puerto Rico submitted a State plan supplement on its industrial hygiene laboratory consisting of an inventory of laboratory equipment and copies of the standard operating procedures for the laboratory. Based on OSHA review comments, Puerto Rico

also submitted a copy of the laboratory sampling and analytical techniques tables which show the substances the laboratory can analyze and a copy of State plan staffing levels for the laboratory.

12. *Boiler and Elevator Program.* On November 28, 1979, Puerto Rico submitted a State plan supplement consisting of procedures for its boiler and elevator inspection program. OSHA review of this State plan supplement found that Puerto Rico's boiler and elevator inspection program could not meet the OSHA requirements for unannounced inspection, employer and employee walkaround, citation and proposed penalty for first instance violations, and specific abatement dates for correction of violations. Based on OSHA recommendations, Puerto Rico submitted an amendment to its FY 1981 grant application deleting the boiler and elevator inspectors from its State plan and on November 14, 1980, submitted a State plan supplement deleting the entire boiler and elevator inspection program from its State plan.

Location of the Plan and Its Supplements for Inspection and Copying

A copy of the Puerto Rico State plan and the supplements described above may be inspected and copied during normal business hours at the following locations:

Office of the Director, Federal Compliance and State Programs, Occupational Safety and Health Administration, Room N3613, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210
Office of the Regional Administrator, Occupational Safety and Health Administration, 1515 Broadway (1 Astor Plaza), Room 3445, New York, New York 10036
Commonwealth of Puerto Rico, Occupational Safety and Health Administration, Department of Labor, Prudencio Rivera Martinez Building, 505 Munoz Rivera Avenue, Hato Rey, Puerto Rico 00918

Public Participation

Under 29 CFR 1953.2(c) of this chapter, the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable law. The Assistant Secretary finds that the Commonwealth of Puerto Rico's supplements described above are consistent with commitments made in the approved plan which were previously made available for public

comment. Accordingly, it is found that further public comment is unnecessary.

List of Subjects in 29 CFR Part 1952

Intergovernmental relations, Law enforcement, Occupational safety and health.

Decision

PART 1952—APPROVED STATE PLANS FOR ENFORCEMENT OF STATE STANDARDS

After careful consideration, the Puerto Rico plan supplements described above are hereby approved under Subpart B of Part 1953. This decision incorporates the requirements of the Act and implementing regulations applicable to State plans generally. In addition, Subpart FF of 29 CFR Part 1952 is amended to reflect the completion of developmental steps by designating the first paragraph under § 1952.384 as paragraph (a) and by adding paragraphs (b) through (r) as follows:

§ 1952.384 Completed developmental steps.

- * * * * *
- (b) In accordance with 29 CFR 1952.383(a), Puerto Rico submitted position descriptions for State plan personnel on March 3, 1980, and submitted revised position descriptions on September 8, 1980.
- (c) In accordance with 29 CFR 1952.383(b), Puerto Rico submitted its public information program for the private sector on August 10, 1978.
- (d) In accordance with 29 CFR 1952.383(c), Puerto Rico submitted its analysis for inspection scheduling in the private sector on June 3, 1980.
- (e) In accordance with 29 CFR 1952.383(d), Puerto Rico submitted its administrative regulations on September 13, 1978, and submitted revisions to the regulations on October 27, 1978, March 12, 1979, and February 14, 1980.
- (f) In accordance with 29 CFR 1952.383(e), Puerto Rico has developed an affirmative action plan that was found acceptable by the United States Office of Personnel Management on March 27, 1981.
- (g) In accordance with 29 CFR 1952.383(f), Puerto Rico has promulgated standards identical to Federal standards and subsequent amendments to reflect changes in and additions to Federal standards. The Regional Administrator approved these supplements on July 14, 1978 (43 FR 37233), June 18, 1979 (44 FR 71470), June 12, 1979 (44 FR 33751), April 17, 1979 (44 FR 22830), and October 23, 1981 (46 FR 52060).
- (h) In accordance with 29 CFR 1952.383(g), Puerto Rico submitted its

Field Operations Manuals on July 31, 1980, and submitted a revised supplement adopting the Federal OSHA Field Operations Manuals on February 25, 1981.

(i) In accordance with 29 CFR 1952.383(h), Puerto Rico has participated in the Federal OSHA Management Information System since August of 1978.

(j) In accordance with 29 CFR 1952.383(i), Puerto Rico submitted its internal training schedule on May 5, 1980.

(k) In accordance with 29 CFR 1952.383(j), Puerto Rico submitted its employer/employee training schedule on March 11, 1980, and on February 13, 1981, submitted an updated training schedule.

(l) In accordance with 29 CFR 1952.383(k), Puerto Rico submitted its public information program for the government sector on March 13, 1980.

(m) In accordance with 29 CFR 1952.383(l), Puerto Rico submitted its analysis for inspection scheduling in the government sector on August 13, 1980.

(n) In accordance with 29 CFR 1952.383(m), Puerto Rico implemented its public employee program in October 1978.

(o) In accordance with 29 CFR 1952.383(n), Puerto Rico submitted its on-site consultation regulations on March 30, 1979.

(p) In accordance with 29 CFR 1952.383(o), Puerto Rico submitted a State plan supplement on its industrial hygiene laboratory on July 14, 1980.

(q) In accordance with 29 CFR 1952.383(q), Puerto Rico submitted its procedures for a boiler and elevator inspection program on November 28, 1979. Based on OSHA recommendations, Puerto Rico submitted a revision to this supplement deleting the boiler and elevator inspection program from the State plan on November 14, 1980.

(r) In accordance with 29 CFR 1952.383(r), Puerto Rico submitted documentation of staffing levels for the on-site consultation program and the industrial hygiene laboratory on March 3, 1980. Based on OSHA recommendations, Puerto Rico deleted staffing for the boiler and elevator inspection program from its State plan on November 14, 1980.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1600, 1608 (29 U.S.C. 667))

Signed at Washington, D.C. this 4th day of June 1982.

Thorne G. Auchter,
Assistant Secretary.

[FR Doc. 82-15752 Filed 6-10-82; 8:45 am]
BILLING CODE 4510-26-M

DEPARTMENT OF THE INTERIOR

Geological Survey

30 CFR Parts 250 and 251

Reimbursement to Lessees and Permittees

AGENCY: Geological Survey, Interior.

ACTION: Final rule.

SUMMARY: This final rule amends the regulations of the Department of the Interior (DOI) to modify the practices and procedures for reimbursement of lessees and permittees for geological and geophysical (G&G) data and information submitted to the Director. These modifications are required by section 26 of the Outer Continental Shelf (OCS) Lands Act as interpreted by the Solicitor of DOI.

EFFECTIVE DATE: July 12, 1982.

FOR FURTHER INFORMATION CONTACT: David A. Schuenke, (703) 860-7916, (FTS) 928-7916.

SUPPLEMENTARY INFORMATION:

Background

The OCS Lands Act, prior to 1978, provided no statutory authority to reimburse a permittee or lessee for the costs incurred to provide the Director with required G&G data and information. Section 26 of the OCS Lands Act, as amended in 1978, requires that certain costs will be reimbursed to the submitting parties. This final rule implements that requirement. Under the rule a lessee or permittee will be reimbursed for the costs to reproduce any G&G data or information required to be submitted to the Director. A permittee or lessee will be reimbursed for the reasonable cost of processing geophysical information when the processing is in a form or manner required by the Director and is not used in the normal conduct of business of the permittee or lessee. When the processing is in the form and manner which is used by a permittee in the normal conduct of business, the Secretary will pay the costs attributable to such processing at the lowest rate available to any purchaser for processing such data and information. A lessee's similar costs may not be reimbursed. Reimbursement is not authorized for analyzing geological

information, collecting G&G data, or interpreting G&G information.

This final rule follows the analysis of comments received in response to a Notice of Proposed Rulemaking published October 5, 1981 (46 FR 48952). A total of nine comments were received: Eight from industry or trade organizations and one from a State governmental agency.

Difference Between Proposed Rule and Final Rule

There are two differences between the proposed and final rule. In the final rule the right to request reimbursement for reproduction costs is triggered by submission of the data or information to the Director as distinguished from submission and retention of the data or information. The proposed definitions, 30 CFR 250.2(mmm) and (nnn), 30 CFR 251.2(pp) and (qq), and 30 CFR 252.2(u) and (v), are not part of the final rule.

Discussion of Comments

Of the nine commenters, eight supported the regulatory change to provide for reimbursement. The single opposing commenter felt that the Government should not pay the costs for industry. However, Congress required that the Government reimburse industry for reasonable costs of providing necessary data and information to the Government. Congress has legislated that the Government pay its share.

One commenter who otherwise supported the change, stated that the use of the word "reasonable" created confusion and necessitated a case by case analysis. It was suggested that a commercial rate be set periodically by region, thereby eliminating the need to evaluate on an individual basis. We disagree that the commenter's suggested method would simplify the process. Periodically setting a rate would be burdensome and inequitable because of the numerous variables that can apply to each separate case.

Two commenters expressed the opinion that the regulations should provide for reimbursement for Environmental Reports (ER) and all surveys authorized under 30 CFR Part 250 and not just G&G data and information applicable to Exploration Plans or Development and Production Plans. The Solicitor's Opinion M-36924 specifies that the reimbursement authorized in section 26 of the OCS Lands Act applies only to reimbursement for G&G data and information, not to reports or surveys *per se*. The Government does not reimburse a permittee or lessee for a survey itself, but only for reproduction and/or limited processing of G&G data

or information. To the extent an ER contains G&G data and information, the lessee is entitled to reimbursement for the cost of its reproduction and reimbursement for processing of geophysical information as provided in these regulations.

One commenter disagreed with the requirement that the Director retain the submitted information in order to trigger entitlement to reimbursement for reproduction costs. We agree, and the final rule reflects this change. Section 26 of OCS Lands Act requires the Secretary to reimburse permittees and lessees for reproduction costs whenever they provide the data and information to the Secretary. At a minimum the submitter is entitled to reimbursement for the cost of reproduction, regardless of whether the information is retained. Where the party has met the requirement of providing required information and has borne the cost of its reproduction, the retention of such information by the Government is irrelevant to the issue of reimbursement. The final rule, therefore, triggers entitlement to reimbursement for reproduction costs on submission and not retention of the required information.

Two commenters objected to the process for receiving reimbursement as being complicated and burdensome. We have recognized that the process is complicated and we are examining simplified procedures in that regard. Any procedures adopted must be consistent with the Federal Procurement Regulations and are not within the specific purview of the OCS operating regulations.

One commenter expressed concern that the Government was not properly handling data and information gathered for the protection of underwater cultural resources on the OCS. The commenter recommended that the Government establish a uniform nationwide archiving system to retain information of historical and/or cultural significance. This issue is not specifically relevant to the question of reimbursement. Nevertheless, in response to that comment, this issue has been called to the attention of the task force on cultural resources made up of personnel from the U.S. Geological Survey and Bureau of Land Management.

The proposed definitions of G&G information and data are not included as a part of the final rule. It was concluded that these definitions provide little, if any, improvement over the current definitions.

Information Collection: The information collection requirements contained in 30 CFR 250.58 and 30 CFR

251.13 have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance number 1028-0039.

Authors: Platte Clark, Jane Roberts, and David Schuenke, Minerals Management Service, Department of the Interior, (703) 860-7916.

Regulatory Analysis and Small Entity Flexibility Analysis

The Department has determined that this final rule is not a major action and does not require the preparation of a regulatory impact analysis under E.O. 12291. In addition, the Department had determined that this rule will not have a significant economic effect on a substantial number of small entities and does not, therefore, require a small entity flexibility analysis under the Regulatory Flexibility Act.

List of Subjects

30 CFR Part 250

Continental shelf, Environmental protection, Oil and gas reserves, Public lands—mineral reserves, Reporting requirements.

30 CFR Part 251

Continental shelf, Public lands—mineral resources, Reporting requirements, Science and technology.
Daniel N. Miller, Jr.,
Assistant Secretary of the Interior.
December 31, 1981.

PART 250—OIL AND GAS AND SULPHUR OPERATIONS IN THE OUTER CONTINENTAL SHELF

For the reasons stated in the preamble, it is proposed that 30 CFR Part 250 be amended as set forth below:

- Section 250.0 is added to 30 CFR Part 250 to read as follows:

§ 250.0 Authority for information collection.

(a) The information collection requirement contained in 30 CFR 250.58 has been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance number 1028-0039. The information is being collected and will be used to determine eligibility for reimbursement from the Government for certain costs. The obligation to respond is required to obtain a benefit.

2. Section 250.12 is amended by adding a new sentence to paragraph (d)(1) immediately preceding the last sentence as follows:

§ 250.12 Suspension of operation and lease cancellation.

* * * * *

(d)(1) * * * other than the lessee. The lessee may be reimbursed for the cost of information and data as otherwise authorized in this Part of the regulations. The Director shall make such results available * * *.

* * * * *

3. Section 250.34-1, paragraph (k) is amended by revising the last sentence to read as follows:

§ 250.34-1 Exploration plan.

* * * * *

(k) * * * The lessee shall provide to the Director, upon request, copies of any data or information obtained as a result of those surveys.

* * * * *

4. Section 250.34-2, paragraph (n) is amended by revising the last sentence to read as follows:

§ 250.34-2 Development and production plan.

* * * * *

(n) * * * The lessee shall provide to the Director, upon request, copies of any data or information obtained as a result of the surveys.

§ 250.39 [Amended]

5. Section 250.39 paragraph (a) is amended by removing the phrase " * * * and without cost to the lessor, * * * "

6. A new § 250.58 is added to read as follows:

§ 250.58 Reimbursement to lessees.

(a) After the delivery to the Director of geological data, analyzed geological information, interpreted geological information, geophysical data, processed geophysical information, reprocessed geophysical information, and interpreted geophysical information selected by the Director, and upon receipt of a request for reimbursement and a determination by the Director that the requested reimbursement is proper, the lessee or third party shall be reimbursed for the reasonable costs of reproducing the selected information and data at the lessee's or third party's lowest rate, or at the lowest commercial rate established in the area, whichever is less.

(b) After the delivery to the Director of processed or reprocessed geophysical information selected and retained by the Director, and upon receipt of a request for reimbursement and a determination by the Director that the requested reimbursement is proper, the lessee or third party shall be reimbursed for the reasonable costs attributable to processing and reprocessing such information (as distinguished from the cost of data acquisition), but only if the

processing or reprocessing was in the form and manner of processing other than that used in the normal conduct of the lessee's business at the request of the Director.

(c) Requests for reimbursement shall identify processing and reprocessing costs separate from acquisition costs.

(d) The lessee shall not be reimbursed for the costs of analyzing geological information or for interpreting geological or geophysical information.

PART 251—GEOLOGICAL AND GEOPHYSICAL (G&G) EXPLORATIONS OF THE OUTER CONTINENTAL SHELF

For the reasons stated in the preamble, it is proposed that 30 CFR Part 251 be amended as set forth below:

1. Section 251.0 is added to 30 CFR Part 251 to read as follows:

§ 251.0 Authority for information collection.

(a) The information collection requirement contained in 30 CFR 251.13 has been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance number 1028-0039. The information is being collected and will be used to determine eligibility for reimbursement from the Government for certain costs. The obligation to respond is required to obtain a benefit.

2. Section 251.13 is revised to read as follows:

§ 251.13 Reimbursement to permittees.

(a) After the delivery to the Director of geological data, analyzed geological information, interpreted geological information, geophysical data, processed geophysical information, reprocessed geophysical information, and interpreted geophysical information selected by the Director in accordance with §§ 251.11 or 251.12, and upon receipt of a request for reimbursement and a determination by the Director that the requested reimbursement is proper, the permittee or third party shall be reimbursed for the reasonable costs of reproducing the selected information and data at the permittee's or third party's lowest rate or at the lowest commercial rate established in the area, whichever is less.

(b) After the delivery to the Director of processed or reprocessed geophysical information selected and retained by the Director in accordance with § 251.12(b), and upon receipt of a request for reimbursement and a determination by the Director that the requested reimbursement is proper, the permittee or third party shall be reimbursed for the reasonable costs attributable to

processing and reprocessing such information (as distinguished from the cost of data acquisition) as follows: (1) If the processing or reprocessing was in the form and manner which is used by the permittee in the normal conduct of the business, the Director shall pay the reasonable costs at the lowest rate at which the processed or reprocessed information is made available to any party; or (2) if the processing or reprocessing was in the form and manner of processing other than that used in the normal conduct of the permittee's business at the Director's request, the Director shall pay the reasonable costs of processing and reprocessing such information.

(c) Requests for reimbursement shall identify processing and reprocessing costs separate from acquisition costs.

(d) The permittee or third party shall not be reimbursed for the costs of analyzing geological information or interpreting geological or geophysical information.

(43 U.S.C. 1352)

[FR Doc. 82-15817 Filed 6-10-82; 8:45 am]

BILLING CODE 4310-MR-M

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 906

Approval of the Abandoned Mine Land Reclamation Plan for the State of Colorado Under the Surface Mining Control and Reclamation Act of 1977

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

ACTION: Final rule.

SUMMARY: On February 16, 1982, the State of Colorado submitted to OSM its proposed Abandoned Mine Land Reclamation Plan (Plan) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The purpose of this submission was to demonstrate the State's intent and capability to assume responsibility for administering and conducting the Abandoned Mine Land Reclamation Program established by Title IV of SMCRA and regulations adopted by OSM (30 CFR Chapter VII, Subchapter R, 43 FR 49932-49952, October 25, 1978). After opportunity for public comment and review of the plan submission, the Assistant Secretary for Energy and Minerals of the Department of the Interior has determined that the Colorado Plan meets the requirements of SMCRA and the Secretary's regulations. Accordingly, the Assistant Secretary has approved the Colorado Plan.

EFFECTIVE DATE: The rule is effective June 11, 1982.

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

Office of Surface Mining Reclamation and Enforcement, New Mexico State Office, 219 Central Avenue NW, Suite 216, Albuquerque, New Mexico 97102
State of Colorado, Department of Natural Resources, Mined Land Reclamation Division, 423 Centennial Bldg., 1313 Sherman Street, Denver, Colorado 80203

Office of Surface Mining Reclamation and Enforcement, Administrative Record, Room 5315, 1100 L Street, NW., Washington D.C. 20240

FOR FURTHER INFORMATION CONTACT: Don Willen, Chief, Division of Abandoned Mine Land Reclamation, Office of Surface Mining Reclamation and Enforcement U.S. Department of the Interior, 1951 Constitution Avenue, NW, Washington, D.C. 20240 Telephone (202) 343-7951.

SUPPLEMENTARY INFORMATION:

General Background of the Abandoned Mine Land Reclamation Program

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

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

requirements for State reclamation plans.

The Secretary has adopted regulations that specify the content requirements of a State reclamation plan and the criteria for plan approval (30 CFR Part 884, 43 FR 49932, 48847, October 25, 1978). Under those regulations, the Director of the Office of Surface Mining is required to review the plan and solicit and consider comments of other Federal agencies and the public. If the State plan is disapproved, the State may resubmit a revised reclamation plan at any time.

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

To codify information applicable to individual States under SMCRA, including decisions on State reclamation plans, OSM has established a new Subchapter T of 30 CFR Chapter VII. Subchapter T consists of Parts 900 through 950. Provisions relating to Colorado are found in 30 CFR Part 906.

Background on the Colorado Abandoned Mine Land Reclamation Plan Submission

On November 1, 1979, a cooperative agreement between the State of Colorado, Department of Natural Resources, Mined Land Reclamation Division, and the Office of Surface Mining was approved. The purpose of this agreement was to assure that information required for the preparation of the Colorado Abandoned Mine Land Reclamation Plan would be assembled.

On February 16, 1982, the State of Colorado submitted its proposed Abandoned Mine Land Reclamation Plan to the Office of Surface Mining.

The public was provided adequate notice and opportunity to be heard on the Plan. The record did not reflect any major unresolved controversies. Therefore, a public hearing on the Plan was deemed necessary.

Notice of receipt of the submission initiating the Plan review was published March 26, 1982 (47 FR 13009-13010). The announcement requested public comments. On February 19, 1982, OSM's New Mexico State Director and on May 12, 1982, the Assistant Director for Program Operations and Inspection recommended to the Director that the Assistant Secretary approve the Colorado Reclamation Plan.

The administrative record on the Colorado Plan is available for review during regular business hours at the Office of Surface Mining Reclamation and Enforcement at the address listed above in "Addresses."

Assistant Secretary's Findings

1. In accordance with section 405 of SMCRA the Assistant Secretary finds that Colorado has submitted a Plan for reclamation of abandoned mine lands and has the ability and necessary legislation to implement the provisions of Title IV of SMCRA.

2. The Assistant Secretary has determined, pursuant to 30 CFR 884.13, that:

(a) The Colorado Department of Natural Resources, Mined Land Reclamation Division has the legal authority, policies and administrative structure necessary to carry out the Plan;

(b) The Plan meets all the requirements of 30 CFR Chapter VII, Subchapter R;

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

(d) The Plan is in compliance with all applicable State and Federal laws and regulations.

3. The Assistant Secretary has solicited and considered the views of other Federal agencies having an interest in the Plan as required by 30 CFR 884.14(a)(2). Agencies that recommended revisions to the plan include: U.S. Department of Agriculture (USDA); U.S. Department of the Interior, Bureau of Mines (BOM); U.S. Department of Interior, Fish and Wildlife Service (FWS); and U.S. Environmental Protection Agency (EPA).

Disposition of Comments

The following comments received on the Colorado Plan during the public comment period were considered in the Assistant Secretary's evaluation as indicated below:

1. The USDA commented in Table IV-1 of the plan that vegetative cover needs to be identified and cites two examples: The Pryor and Delcarbon projects which show 174 acres and 107 acres of disturbed land respectively, have no environmental problems or no revegetation measures shown. OSM's response is that there is not a requirement for the State to include a comprehensive evaluation of revegetative measures in the plan. Revegetation would best be addressed on a case by case basis when individual projects are submitted by the State to OSM for construction grants. No modification to the plan is considered necessary.

2. The USDA commented that in Table IV-2 of the plan the cost is shown for hydro-mulch under services, but no cost estimates are shown for seed or plant materials. OSM's response is that Table IV-2 gives the estimated unit costs used in hazard abatement; mainly, equipment, services and materials. Including the cost of seed and plants to this table would be conjecture and would not add significantly to the plan. No modification to the plan is considered necessary.

3. The USDA commented that on page VI-7 of the plan soil (like water and air) should be addressed as a resource in selecting projects and priorities. OSM agrees that soil is an important resource base; however soil condition would be more appropriately addressed by the State on a case by case basis when individual projects are submitted by the State to OSM for construction grants. No modification to the plan is considered necessary.

4. The USDA suggested that information developed by the Upper Colorado Environmental Plant Center on "plant material testing for coal mine revegetation" be incorporated in the Plan by reference. OSM's response is that this suggestion is more appropriate for specific project proposals contemplated by the State in the future. No modification to the Plan is necessary.

5. The BOM commented that implementation of the plan may hinder or preclude recovery of mineral resources, in some cases, if inactive workings are sealed, or if dumps or tailings are reclaimed without regard to mineral values that may remain in some of them. OSM's response is that the State has addressed BOM's concern on page V-5 of the plan. No modification to the plan is required.

6. The BOM commented that "underlying or adjacent beds of commercially mineable coal and other minerals and materials and projected methods of extraction" are not fully addressed in the plan. Specifically, other minerals and materials are not addressed. OSM's response is that the State has indicated in the Appendix (page 3) of Volume I that coal reserves are given but "other minerals and materials cannot be determined." This statement is sufficient. No modification to the plan is necessary. Colorado has indicated in its Plan that only coal related problems will be addressed. After these have been completed, another Plan will be developed for handling the hazards and environmental problems associated with other types of mining. This schedule is consistent with

the priorities listed in sections 403 and 409 of SMCRA.

7. The FWS commented that disturbance of land as a result of moving equipment to remote reclamation sites should be carefully weighed against the benefits of proposed alterations to the land. OSM's response is that the movement of heavy equipment over the terrain is a matter that can be addressed on a case-by-case or project-by-project basis by environmental assessments and/or environmental impact statements. No modification to the plan is required.

8. The EPA commented that it is not clear in the plan how inactive metal mines will be dealt with. See OSM's response to comment number 6.

9. The EPA commented that several potential coal mine drainage problems exist for problems cited in the plan—specifically mitigation measures are not proposed. OSM's response is that site specific mitigation measures will be dealt with by the State on a case by case basis. The plan does not have to address the specific detail of each and every problem cited. Therefore, no modification to the plan is required.

10. The EPA agreed with the State's concept of filling abandoned shafts with impervious materials. However, where such material is unavailable or where mine openings will only be covered with a steel grate, EPA recommends that the entrance be graded in such a way as to channel surface water away. OSM feels that EPA's recommendation has merit for actual projects and has passed it on to the State for consideration in the future. However, modifying the reclamation plan to include this recommendation is not necessary.

Additional Findings

The Office of Surface Mining has examined this rulemaking under section 1(b) of Executive Order No. 12291 (February 17, 1981), and has determined that, based on available quantitative data, it does not constitute a major rule. The reasons underlying this determination are as follows:

1. Approval will not have an effect on costs or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions; and

2. Approval will not have 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 rulemaking has been examined pursuant to the Regulatory Flexibility

Act, 5 U.S.C. 601 *et seq.*, and the Office of Surface Mining has determined that the rule will not have a significant economic effect on a substantial number of small entities. The reason for this determination is that approval will not have demographic effects, direct costs, information collection and recordkeeping requirements, indirect costs, nonquantifiable costs, competitive effects, enforcement costs or aggregate effects on small entities.

The Assistant Secretary has determined that the Colorado Abandoned Mine Land Reclamation Plan will not have a significant effect on the quality of the human environment because the decision relates only to policies, procedures and organization of the State's Abandoned Mine Land Reclamation Program. Therefore, under the Department of Interior Manual (DM) 516.2.2(A)(1), the Assistant Secretary's decision on the Colorado Plan is categorically excluded from the National Environmental Policy Act requirements. As a result, no environmental assessment or environmental impact statement (EIS) has been prepared on this action. It should be noted that a programmatic EIS was prepared by OSM in conjunction with the implementation of Title IV. Also, an environmental analysis or an EIS will be prepared for the approval of grants for the abandoned mine land reclamation projects under 30 CFR Part 886.

The rule is effective June 11, 1982. The good cause for making this rule effective upon date of publication is: (1) The Office of Surface Mining wants to minimize the time between the approval of Title V regulatory programs and Title IV State reclamation programs plans; and (2) grants are pending approval of the Title IV plan and OSM wishes to expedite grant assistance to States to initiate needed reclamation work as required by the Act.

List of Subjects in 30 CFR Part 906

Coal mining, Intergovernmental regulations, Surface mining, Underground mining.

Dated: June 2, 1982.

J. R. Harris,

Director, Office of Surface Mining.

Dated: June 4, 1982.

Daniel N. Miller, Jr.,

Assistant Secretary for Energy and Minerals.

PART 906—COLORADO

Therefore, Part 906 is amended by adding § 906.20 to read as follows:

§ 906.20 Approval of Colorado Abandoned Mine Plan.

The Colorado Abandoned Mine Plan, as submitted and revised is approved.

Copies of the approved program are available at:

Office of Surface Mining Reclamation and Enforcement, New Mexico State Office, 219 Central Avenue NW, Albuquerque, New Mexico 87102
State of Colorado, Department of Natural Resources, Mined Land Reclamation Division, 423 Centennial Building, 1313 Sherman Street, Denver, Colorado 80203

[FR Doc. 82-15666 Filed 6-10-82; 6:45 am]

BILLING CODE 4310-05-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-2-FRL 2128-3; Region II, Docket No. 1]

Revision to the New Jersey State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This notice announces Environmental Protection Agency (EPA) approval for inclusion in the New Jersey State Implementation Plan of two particulate matter emission variances issued by the State. One of these was issued to the Anchor Hocking Corporation's Salem glass making facility and the other to the Owens-Illinois, Inc. Vineland glass making facility.

The Anchor Hocking variance is applicable to one of three glass furnaces at the facility and is premised on the use of at least 35 percent cullet (recycled glass) in the furnace. It raises the allowable particulate matter emission rate from 9.5 to 11.5 pounds per hour for the furnace. The Owens-Illinois variance is applicable to seven furnaces at the facility (five of which exhaust through a common stack) and is premised on the use of at least 45 percent cullet in six of the furnaces and 25 percent cullet in the remaining furnace. This variance will permit an increase in the total allowable hourly emissions from this source from 42.9 to 61.9 pounds.

If approved, both variances will remain in effect until June 11, 1984. EPA agrees with New Jersey's analysis which demonstrates that approval of these "cullet variance" will not cause a contravention of any of the provisions of the Clean Air Act.

This action will be effective August 10, 1982, unless notice is received within

30 days that someone wishes to submit adverse or critical comments.

EFFECTIVE DATE: This action is effective August 10, 1982, unless notice is received within 30 days that someone wishes to submit adverse or critical comments.

ADDRESSES: All comments should be addressed to: Jacqueline E. Schafer, Regional Administrator, Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10278.

Copies of the SIP revision are available at the following addresses for inspection during normal business hours:

Environmental Protection Agency, Region II Office, Air Programs Branch, Room 1005, 26 Federal Plaza, New York, New York 10278

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

New Jersey Department of Environmental Protection, Bureau of Air Pollution Control, Room 1108, Labor and Industry Building, John Fitch Plaza, Trenton, New Jersey 08625

The Office of the Federal Register, 1100 L Street, NW., Room 8401, Washington, D.C. 20408

FOR FURTHER INFORMATION CONTACT: William S. Baker, Chief, Air Programs Branch, Environmental Protection Agency, Room 1005, 26 Federal Plaza, New York, New York 10278, (212) 264-2517

SUPPLEMENTARY INFORMATION: On March 17, 1982 and on April 27, 1982 the Environmental Protection Agency (EPA) received from New Jersey two proposed revisions to its State Implementation Plan (SIP). The State requested EPA approval of two "cullet (recycled glass) variances" which it had issued under the provisions of Subchapter 6.5(b) of Chapter 27, Title 7, of the New Jersey Administrative Code.

The effects of these "cullet variances" are: To increase the allowable particulate matter emissions rate from 9.5 to 11.5 pounds per hour for one (furnace number 2) of three glass furnaces at an Anchor Hocking Corporation Salem glass making facility, and to permit the hourly emissions from an Owens-Illinois, Inc. Vineland glass making facility (at seven furnaces: G, Y, J, K, L, M, R) to increase from 42.9 to 62.9 pounds. These variances are based on the use of at least 35 percent cullet in the Anchor Hocking furnace, 45 percent cullet in six of the Owens-Illinois furnaces, and 25 percent cullet in the remaining Owens-Illinois furnace. As

such they are designed to encourage recycling of glass and the conservation of energy. These "cullet variances" will remain in effect until June 11, 1984.

The State's submittals consisted of the "cullet variance" applications from the sources, reports of recent stack tests, air quality modeling analyses supporting the "cullet variances," notices of public hearing and proofs of publication, and a copy of proposed letters to the companies from the State approving each variance for two years from the date of EPA final approval. During the State's public comment periods, no comments were received.

The State's air quality modeling analyses were supplemented by EPA analyses of the air quality impact of the proposals in the immediate vicinity of the furnace building.

Air Quality Analysis of the Anchor Hocking Variance

EPA's air quality modeling analysis indicated that the maximum 24-hour particulate matter impact would be 15 $\mu\text{g}/\text{m}^3$ and the maximum annual impact would be 0.4 $\mu\text{g}/\text{m}^3$. The existing air quality level in the area where the maximum impacts are predicted to occur is 50 $\mu\text{g}/\text{m}^3$, annual geometric mean, and 73 $\mu\text{g}/\text{m}^3$, second highest 24-hour average. The predicted impacts in combination with existing air quality data yield concentrations well below the national ambient air quality standards of 75 $\mu\text{g}/\text{m}^3$ on an annual basis and 260 $\mu\text{g}/\text{m}^3$ on a 24-hour basis.

Air Quality Analysis of the Owens-Illinois Variance

EPA's air quality modeling analysis indicated that the maximum 24-hour particulate matter impact would be 27 $\mu\text{g}/\text{m}^3$ and the maximum annual impact would be 0.3 $\mu\text{g}/\text{m}^3$. The existing air quality level in the area where the maximum impacts are predicted to occur is 43 $\mu\text{g}/\text{m}^3$, annual geometric mean, and 81 $\mu\text{g}/\text{m}^3$, second highest 24-hour average. The predicted impacts in combination with existing air quality data yield concentrations well below the national ambient air quality standards, as in the preceding case.

Also, in both analyses no adverse interstate impacts were predicted to occur and no applicable Prevention of Significant Deterioration increments were predicted to be violated. Therefore, based on EPA's review of Anchor Hocking and Owens-Illinois air quality impacts, EPA is approving the State's SIP revision request.

This notice is issued as required by Section 110 of the Clean Air Act, as

amended. The Administrator's decision regarding approval of this proposed plan revision was based on its meeting the requirements of Section 110 of the Clean Air Act and 40 CFR Part 51.

EPA is approving this SIP revision request without prior proposal because it is viewed as noncontroversial and no adverse comments are anticipated. The public should be advised that this action will be effective 60 days from the date of this Federal Register notice. However, if 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 the final action and the other will begin a new rulemaking by announcing a proposal of the action and establishing a comment period. If adverse or critical comments are received which address only one of the variance requests, EPA will only repropose action with respect to that specific variance and will finalize action with regard to the other variance request.

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

Pursuant to the provisions 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. This action only approves a state action. It imposes no new requirements.

The Office of Management and Budget (OMB) has exempted this regulation from OMB review requirements of Executive Order 12291.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

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

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

Dated: June 4, 1982.

Anne M. Gorsuch,
Administrator, Environmental Protection
Agency.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Title 40, Chapter I, Subchapter C, Part 52 Code of Federal Regulations, is amended as follows:

Subpart FF—New Jersey

1. Section 52.1570 is amended by adding new paragraph (c)(32) as follows:

§ 52.1570 Identification of plan.

* * * * *

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

* * * * *

(32) Revisions submitted on March 17, 1982 and April 27, 1982 by the New Jersey State Department of Environmental Protection which grant "cullet variances" to furnace number 2 of the Anchor Hocking Corporation's Salem plant and furnaces G, Y, J, K, L, M, R of the Owens-Illinois, Inc. Vineland plant. The "cullet variances" will remain in effect for up to two years from August 10, 1982.

[FR Doc. 82-15854 Filed 6-10-82; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Parts 52 and 62

[A-9-FRL-2123-1]

Approval and Promulgation of State Implementation Plans and State Plans for Designated Facilities and Pollutants; Utah Fluoride and TSP

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: One purpose of this notice is to approve a revision to the Utah State Implementation Plan (SIP) which was submitted on March 1, 1982. The major issue addressed by the State in the SIP is opacity limitations for the Kennecott Copper Smelter and for Utah Power and Light's Gadsby and Hale facilities. The other purpose is to approve limitations on fluoride emissions submitted in accordance with section 111(d) of the Clean Air Act.

DATES: These actions will be effective on August 10, 1982 unless notice is received by July 12, 1982 that someone

wishes to submit adverse or critical comments.

ADDRESSES: Copies of the revision are available for public inspection between 8:00 a.m. and 4:00 p.m. Monday through Friday at the following offices:

Environmental Protection Agency,
Region VIII, Air Programs Branch,
1860 Lincoln Street, Denver, Colorado
80295

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

The Office of the Federal Register, 1100
L Street, NW., Room 8401,
Washington, D.C. 20408

FOR FURTHER INFORMATION CONTACT:

David S. Kircher, Air Programs Branch,
Environmental Protection Agency, 1860
Lincoln Street, Denver, Colorado 80295,
(303) 837-3711.

SUPPLEMENTARY INFORMATION: On
March 1, 1982, the Governor of Utah
submitted a revision to the State
Implementation Plan (SIP) which
addressed several issues. These are
discussed below:

Notice of Intent

Under current regulations all fuel
burning equipment using gas is
exempted from the permit requirements.
This revision would limit the exemption
to gas burning equipment with a rated
capacity less than 5 million BTU per
hour. The intent of this change is to
provide for review and approval of
potentially large sources of nitrogen
oxides.

Particulate Emission Limitations

On December 21, 1981 (46 FR 61859),
EPA approved, for the most part, the
Utah SIP for TSP nonattainment areas.
In that action it was explained that the
SIP did not have enforceable opacity
limits for some stacks at the Kennecott
Copper Company's smelter in Magna,
Utah and Utah Power and Light's
Gadsby and Hale facilities. Because of
the need to have a method to insure
continuing compliance, EPA previously
withheld approval of the SIP for those
sources. This revision includes
enforceable opacity requirements for all
the sources in question except the
Kennecott smelter main stack. The
proposed changes are approvable.
However, the revision did not address
the SIP deficiency at the Kennecott
smelter main stack. As was discussed in
the December 21, 1981, action, EPA and
the State are working with the company

on the best approach to meet the
requirement for that stack. Although this
deficiency in the SIP does not affect the
approvability of the March 1, 1982,
submittal, the overall SIP remains
unapproved with respect to that source.

Unavoidable Breakdown

This section was expanded by the
State to apply to pollutants other than
those for which there is a national
ambient air quality standard.

Fluoride

Section 111(d) of the Clean Air Act
requires States to adopt emission
limitations for non-criteria air pollutants
whenever EPA has adopted a new
source performance standard for that
pollutant. These emission limitations
must be developed and submitted in
accordance with EPA guidelines and
regulations found in Subpart B of 40 CFR
Part 60. The revision includes new
fluoride limits for phosphate fertilizer
plants. There is only one such facility in
Utah and the new limitation would
reduce emissions at that facility from
737 to 281 pounds per day. Taking into
consideration several factors including
the size, age, and location of the facility,
the State demonstrated that the
proposed limitation is consistent with
EPA guidelines and the State submittal
meets the requirements of 40 CFR 60.20-
60.29.

EPA Action

On December 19, 1981, the State held
a public hearing on the proposed
changes to their SIP. No comments were
received at or following the hearing.

EPA today is approving the SIP
revision and the section 111(d) fluoride
plan. The public is advised that this
action will be effective August 10, 1982.
However, if we receive written notice by
July 12, 1982 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 this final action and another
will begin a new rulemaking by
announcing a proposal of the action and
establishing a comment period.

Under section 307(b)(1) of the Clean
Air Act, petitions for review of this
action must be filed in the United States
Court of Appeals for the appropriate
circuit by (60 days from today). This
action may not be challenged later in
proceedings to enforce its requirements
(See 307(b)(2)).

The Office of Management and Budget
has exempted this rule from the
requirements of section 3 of Executive
Order 12291.

Pursuant to 5 U.S.C. 605(b), I have
certified that SIP approvals do not have
a significant economic impact on a
substantial number of small entities. (46
FR 8709.)

(Secs. 110 and 111 of the Clean Air Act (42
U.S.C. 7410))

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur
oxides, Nitrogen dioxide, Lead,
Particulate matter, Carbon monoxide,
Hydrocarbons.

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

Dated: June 3, 1982.

Anne M. Gorsuch,
Administrator.

**PART 52—APPROVAL AND
PROMULGATION OF
IMPLEMENTATION PLANS**

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

Subpart TT—Utah

(1) In § 52.2320, paragraph (c)(13) is
added as follows:

§ 52.2320 Identification of plan.

* * * * *

(c) * * *

(13) Provisions to meet the
requirements of Part D of the Clean Air
Act, as amended in 1977, for particulates
were submitted on March 1, 1982.

**PART 62—APPROVAL AND
PROMULGATION OF STATE PLANS
FOR DESIGNATED FACILITIES AND
POLLUTANTS**

Title 40, Part 62 of the Code of Federal
Regulations is amended by adding a
new Subpart TT as follows:

Subpart TT—Utah

**Fluorides From Existing Phosphate
Fertilizer Plants**

§ 62.1110 Identification of plan.

(a) *Title of plan:* "Control of Fluorides
from Existing Phosphate Plants".

(b) The plan was officially submitted
on March 1, 1982.

(c) *Identification of Source:* The plan
includes the Chevron Chemical
Company's phosphate fertilizer plant in
Magna, Utah.

[FR Doc. 82-15655 Filed 6-10-82; 8:45 am]

BILLING CODE 6560-50-M

**GENERAL SERVICES
ADMINISTRATION****41 CFR Part 101-8**

[FPMR Amdt. A-32]

**Nondiscrimination in Federally
Assisted Programs**AGENCY: General Services
Administration.

ACTION: Final rule.

SUMMARY: The General Services Administration (GSA) is issuing this regulation to implement section 504 of the Rehabilitation Act of 1973, as amended. It forbids discrimination against qualified handicapped persons in any program or activity receiving Federal assistance from the GSA.

DATES: Effective Date: June 8, 1982.

FOR FURTHER INFORMATION CONTACT:

Mr. Grant B. Williams, Jr., Director, Office of Civil Rights, or Mr. Thomas E. Henderson, Policy, Planning, and Program Development Division, Office of Civil Rights, U.S. General Services Administration, 18th and F Streets, NW., Washington, D.C. 20405, (202-566-1413). A telecommunications device for deaf (TDD) persons is available on (202) 566-1368.

SUPPLEMENTARY INFORMATION:**Background**

In the Federal Register (44 FR 62298) October 30, 1979, GSA proposed for public comment a regulation prohibiting discrimination on the basis of handicap. A final section 504 regulation was not issued at that time because of a decision to issue a consolidated regulation covering not only section 504, but also title VI of the Civil Rights Act of 1964, title IX of the Education Amendments of 1972, as amended, and the Age Discrimination Act of 1975, as amended, which prohibit discrimination on the bases of race, color, national origin, sex and age in programs receiving Federal assistance from GSA.

However, on June 16, 1981, the United States District Court of the Central District of California issued an Order and supporting Findings of Fact and Conclusions of Law in the case of *Paralyzed Veterans of America et al. vs. William French Smith et al.* The order requires, in part, GSA to publish a final regulation implementing section 504 on an "expedited basis." Therefore, in order to comply with the court order, GSA is issuing this section 504 subpart separately as a final rule.

In order to streamline administrative

and procedural requirements which are common in each of the statutes requiring nondiscrimination in federally assisted programs, GSA will still prepare at a later date a comprehensive proposed rule including this 504 subpart as well as related subparts for the other nondiscrimination statutes. The consolidation of prohibitions of discrimination into one regulation will make nondiscrimination requirements clearer and easier to comply with, less burdensome to recipients of GSA assistance and more manageable for GSA to administer. Comments on the comprehensive rule and the related regulations will be solicited at a future time. In addition to requesting information on possible content changes, we will be also seeking comment on the economic impact of our regulation.

However, the Department of Justice and the Equal Employment Opportunity Commission are reviewing the 504 guidelines issued by the Department of Health, Education, and Welfare and GSA will amend its regulation if the guidance is revised. This is in accordance with Executive Orders 12067, 12250 and 12291.

Summary of Rule and Comments

This final rule implementing section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794, is issued under 41 CFR Subpart 101-8.3. It defines in general terms the meaning of nondiscrimination in employment, including necessary limitations on preemployment inquiries, and the requirement that recipients assure reasonable accommodation to qualified handicapped applicants and employees. It also establishes requirements for making existing and newly constructed facilities accessible to qualified handicapped applicants, employees, or beneficiaries. Section 101-8.311 provides guidance to applicants and recipients on program accessibility in historic preservation programs.

The section 504 guidelines of the Department of Justice require GSA to issue rules and regulations consistent with the DOJ guidelines (45 CFR Part 85, redesignated as 28 CFR Part 41 (46 FR 40686)). This final rule issued by GSA is consistent with the DOJ guidelines.

The intent of this regulation is to assure that qualified handicapped persons enjoy equitable distribution and quality in services, benefits, and employment provided by federally assisted programs or activities. Individuals who feel that they have been discriminated against should follow the

procedures applicable to title VI of the Civil Rights Act of 1964, which may be found in 41 CFR 101-8.209-215. They are referenced in § 101-8.312 of this regulation.

Few public comments were received on the proposed rule, which appeared in the Federal Register (44 FR 62298) October 30, 1979. The comments received were generally supportive in nature.

However, several comments were directed at provisions of the proposed rule concerning hearing impaired persons. One recommendation was that examples be given of how communications can be made available to hearing impaired persons. Accordingly, this is accomplished in § 101-8.303(h) and § 101-8.306(b)(2). The reporting and recordkeeping provisions contained in this regulation (§§ 101-8.308, 101-8.309, and 101-8.313) have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96-511) and have been assigned OMB control number 3090-0099.

List of Subjects in 41 CFR Part 101-8**Handicap, Discrimination.**

In consideration of the foregoing, Title 41, Code of Federal Regulations, is amended by adding a new Part 101-8 to read as set forth below:

**PART 101-8—NONDISCRIMINATION IN
FEDERALLY ASSISTED PROGRAMS****Subpart 101-8.1—General Provisions
[Reserved]****Subpart 101-8.2—Discrimination Prohibited
on the Bases of Race, Color, National
Origin, Sex or Age [Reserved]****Subpart 101-8.3—Discrimination Prohibited
on the Basis of Handicap****Sec.**

- 101-8.300 Purpose and applicability.
- 101-8.301 Definitions.
- 101-8.302 General prohibitions.
- 101-8.303 Specific prohibitions.
- 101-8.304 Effect of State or local law or other requirements and effect of employment opportunities.
- 101-8.305 Employment practices prohibited.
- 101-8.306 Reasonable accommodation.
- 101-8.307 Employment criteria.
- 101-8.308 Preemployment inquiries.
- 101-8.309 Program accessibility.
- 101-8.310 New construction.
- 101-8.311 Historic Preservation Programs.
- 101-8.312 Procedures.
- 101-8.313 Self evaluation.

Subpart 101-8.4—Requirements for Applicants and Recipients [Reserved]**Subpart 101-8.5—Agency Compliance Procedures [Reserved]****Subpart 101-8.6—Laws Authorizing Federal Assistance [Reserved]****Subparts 101-8.7—101-8.49 [Reserved]**

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

Subparts 101-8.1 and 101-8.2 [Reserved]**Subpart 101-8.3—Discrimination Prohibited on the Basis of Handicap****§ 101-8.300 Purpose and applicability.**

(a) The purpose of this subpart is to implement section 504 of the Rehabilitation Act of 1973, as amended, which prohibits discrimination on the basis of handicap in any program or activity receiving Federal financial assistance.

(b) This subpart applies to each recipient or subrecipient of Federal assistance from GSA and to each program or activity that receives or benefits from assistance.

§ 101-8.301 Definitions.

(a) "Section 504" means Sec. 504 of the Rehabilitation Act of 1973, Pub. L. 93-112, as amended by the Rehabilitation Act Amendments of 1974, Pub. L. 93-516, 29 U.S.C. 794.

(b) "Handicapped person" means any person who has a physical or mental impairment which substantially limits one or more major life activities, has a record of such impairments, or is regarded as having such an impairment.

(c) As used in paragraph (b) of this section, the phrase:

(1) "Physical or mental impairment" means:

(i) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive, digestive, genitourinary; hemic and lymphatic; skin; and endocrine; or

(ii) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term "physical or mental impairment" includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness and drug addiction and alcoholism, when current use of drugs

and/or alcohol is not detrimental to or interferes with the employee's performance, nor constitutes a direct threat to property or safety of others.

(2) "Major life activities" means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.

(3) "Has a record of such an impairment" means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

(4) "Is regarded as having an impairment" means:

(i) Has a physical or mental impairment that does not substantially limit major life activities but that is treated by a recipient as constituting such a limitation;

(ii) Has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment; or

(iii) Has none of the impairments defined in paragraphs (c)(1)(i) and (ii) of this section, but is treated by a recipient as having such an impairment.

(d) "Qualified handicapped person" means:

(1) With respect to employment, a handicapped person who, with reasonable accommodation, can perform the essential functions of the job in question;

(2) With respect to public preschool, elementary, secondary, or adult education services, a handicapped person:

(i) Of an age during which nonhandicapped persons are provided such services;

(ii) Of any age during which it is mandatory under state law to provide such services to handicapped persons; or

(iii) To whom a state is required to provide a free appropriate public education under sec. 612 of the Education for All Handicapped Children Act of 1975, Pub. L. 94-142.

(3) With respect to postsecondary and vocational education services, a handicapped person who meets the academic and technical standards requisite to admission or participation in the recipient's education program or activity; and

(4) With respect to other services, a handicapped person who meets the essential eligibility requirements for the receipt of such services.

(e) "Handicap" means condition or characteristic that renders a person a handicapped person as defined in paragraph (b) of this section.

The definitions set forth in Subpart 101-8.216, to the extent not inconsistent with this subpart, are made applicable to and incorporated into this subpart.

§ 101-8.302 General prohibitions.

No qualified handicapped persons shall, on the basis of handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity that receives or benefits from Federal assistance from GSA.

§ 101-8.303 Specific prohibitions.

(a) A recipient, in providing any aid, benefit, or service, may not directly or through contractual, licensing, or other arrangements, on the basis of handicap:

(1) Deny a qualified person the opportunity to participate in or benefit from the aid, benefit, or service;

(2) Afford a qualified handicapped person an opportunity to participate in or benefit from the aid, benefit, or service that is not equal to that afforded others;

(3) Provide a qualified handicapped person with an aid, benefit, or service that is not as effective in affording equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as that provided others;

(4) Provide different or separate aid, benefits, or services to handicapped persons or to any class of handicapped persons than is provided to others unless the action is necessary to provide qualified handicapped persons with aid, benefits, or services that are as effective as those provided to others;

(5) Aid or perpetuate discrimination against a qualified handicapped person by providing significant assistance to an agency, organization, or person that discriminates on the basis of handicap in providing any aid, benefit, or services to beneficiaries of the recipient's program;

(6) Deny a qualified handicapped person the opportunity to participate as a member of planning committees, advisory boards, or other groups; or

(7) Otherwise limit a qualified handicapped person in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving the aid, benefit, or service.

(b) For purposes of this subpart, aids, benefits, and services, to be equally effective, are not required to produce the identical result or level of achievement for handicapped and nonhandicapped persons, but must afford handicapped persons equal opportunity to obtain the same result, to gain the same benefit, or

to reach the same level of achievement in the most integrated setting appropriate to the person's needs.

(c) Despite the existence of permissible separate or different programs or activities, a recipient may not deny a qualified handicapped person the opportunity to participate in programs or activities that are not separate or different.

(d) A recipient may not, directly or through contractual or other arrangements, use criteria or methods of administration that:

(1) Have the effect of subjecting qualified handicapped persons to discrimination on the basis of handicap;

(2) Have the purpose or effect of defeating or substantially impairing accomplishment of the objectives of the recipient's program with respect to handicapped persons; or

(3) Perpetuate the discrimination of another recipient if both recipients are subject to common administrative control or are agencies of the same State.

(e) In determining the site of a facility, an applicant for assistance or a recipient may not make selections that:

(1) Have the effect of excluding handicapped persons from, denying them the benefits of, or otherwise subjecting them to discrimination under any program or activity that receives Federal assistance from GSA; or

(2) Have the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the program or activity with respect to handicapped persons.

(f) As used in this section, the aid, benefit, or service provided under a program or activity receiving or benefitting from Federal assistance includes any aid, benefit, or service provided in or through a facility that has been constructed, expanded, altered, leased, or rented, or otherwise acquired, in whole or in part, with Federal assistance.

(g) The exclusion of nonhandicapped persons from the benefits of a program limited by Federal statute or Executive order to handicapped persons or the exclusion of a specific class of handicapped persons from a program limited by Federal statute or Executive order to a different class of handicapped persons is not prohibited by this subpart.

(h) Recipients shall take appropriate steps to ensure that communications with the donees, applicants, employees, and handicapped persons participating in federally assisted programs and activities or receiving aid, benefits, or services are available to persons with impaired vision and hearing. Examples

of communications methods include: Telecommunication devices for the deaf (TDD's), other telephonic devices, provision of braille materials, readers, and qualified sign language interpreters.

(i) The enumeration of specific forms of prohibited discrimination in this section does not limit the generality of the prohibition in § 101-8.302 of this subpart.

§ 101-8.304 Effect of State or local law or other requirements and effect of employment opportunities.

(a) The obligation to comply with this subpart is not obviated or alleviated by the existence of any State or local law or other requirement that, on the basis of handicap, imposes prohibitions or limits upon the eligibility of qualified handicapped persons to receive services or to practice any occupation or profession.

(b) The obligation to comply with this subpart is not obviated or alleviated because employment opportunities in any occupation or profession are or may be more limited for handicapped persons than for nonhandicapped persons.

§ 101-8.305 Employment practices prohibited.

(a) No qualified handicapped person shall, on the basis of handicap, be subjected to employment discrimination under any program or activity to which this subpart applies.

(b) A recipient shall make all decisions concerning employment under any program or activity to which this subpart applies in a manner which ensures that discrimination on the basis of handicap does not occur and may not limit, segregate, or classify applicants or employees in any way that adversely affects their opportunities or status because of handicap.

(c) A recipient may not participate in a contractual or other relationship that has the effect of subjecting qualified handicapped applicants or employees to discrimination prohibited by this subpart. The relationships referred to in this paragraph include relationships with employment and referral agencies, labor unions, organizations providing or administering fringe benefits to employees of the recipient, and organizations providing training and apprenticeship programs.

(d) The provisions of this subpart apply to:

(1) Recruitment, advertising, and processing of applications for employment;

(2) Hiring, upgrading, promotion, award of tenure, demotion, transfer,

layoff, termination, right of return from layoff, and rehiring;

(3) Rates of pay or any other form of compensation and changes in compensation;

(4) Job assignments, job classifications, organizational structures, position descriptions, lines of progression, and seniority lists;

(5) Leaves of absence, sick or otherwise;

(6) Fringe benefits available by virtue of employment, whether administered by the recipient or not;

(7) Selection and provision of financial support for training, including apprenticeship, professional meetings, conferences, and other related activities, and selection for leaves of absence to pursue training;

(8) Employer-sponsored activities, including social or recreational programs; and

(9) Any other term, condition, or privilege of employment.

(e) A recipient's obligation to comply with this subpart is not affected by any inconsistent term of any collective bargaining agreement to which it is a party.

§ 101-8.306 Reasonable accommodation.

(a) A recipient shall make reasonable accommodation to the known physical or mental limitations of an otherwise qualified handicapped applicant or employee unless the recipient can demonstrate that the accommodation would impose an undue hardship on the operation of its program.

(b) Reasonable accommodation may include:

(1) Making facilities used by employees readily accessible to and usable by handicapped persons; and

(2) Job restructuring; part-time or modified work schedules; acquisition or modification of equipment or devices, such as telecommunications devices or other telephonic devices for hearing impaired persons; provision of reader or qualified sign language interpreters; and other similar actions. These actions are to be taken either upon request of the handicapped employee or, if not so requested, upon the recipient's own initiative, after consultation with and approval by the handicapped person.

(c) In determining, under paragraph (a) of this section, whether an accommodation would impose an undue hardship on the operation of a recipient's program, factors to be considered include:

(1) The overall size of the recipient's program with respect to number of employees, number and type of facilities, and size of budget;

(2) The type of the recipient's operation, including the composition and structure of the recipient's work force; and

(3) The nature and cost of the accommodation needed.

(d) A recipient may not deny an employment opportunity to a qualified handicapped employee or applicant if the basis for the denial is the need to make reasonable accommodation to the physical or mental limitations of the employee or applicant.

§ 101-8.307 Employment criteria.

(a) A recipient may not use an employment test or other selection criterion that screens out or tends to screen out handicapped persons unless the test score or other selection criterion, as used by the recipient, is shown to be job-related for the position in question.

(b) A recipient shall ensure that employment tests are adapted for use by persons who have handicaps that impair sensory, manual, or speaking skills except where those skills are the factors that the test purports to measure.

§ 101-8.308 Preemployment inquiries.

(a) Except as provided in paragraphs (b) and (c) of this section, a recipient may not conduct a preemployment medical examination or may not make preemployment inquiries of an applicant as to whether the applicant is a handicapped person or as to the nature or severity of a handicap. A recipient may, however, make preemployment inquiries into an applicant's ability to perform job-related functions.

(b) When a recipient is taking remedial action to correct the effects of past discrimination, or is taking voluntary action to overcome the effects of conditions that resulted in limited participation in its federally assisted program or activity, or when a recipient is taking affirmative action under section 503 of the Rehabilitation Act of 1973, as amended, the recipient may invite applicants for employment to indicate whether, and to what extent, they are handicapped provided that:

(1) The recipient states clearly on any written questionnaire used for this purpose or makes clear orally, if no written questionnaire is used, that the information requested is intended for use solely in connection with its remedial action obligations or its voluntary or affirmative action efforts; and

(2) The recipient states clearly that the information is requested on a voluntary basis, that it will be kept confidential as provided in paragraph (d) of this section, that refusal to provide it will not subject

the applicant or employee to any adverse treatment, and that it will be used only in accordance with this subpart.

(c) This section does not prohibit a recipient from conditioning an offer of employment on the results of a medical examination conducted prior to the employee's entrance on duty provided that all entering employees are subjected to the examination regardless of handicap or absence of handicap and results of the examination are used only in accordance with the requirements of this subpart.

(d) Information obtained in accordance with this section concerning the medical condition or history of the applicant shall be collected and maintained on separate forms that are to be accorded confidentiality as medical records, except that:

(1) Supervisors and managers may be informed of restrictions on the work or duties of handicapped persons and of necessary accommodations;

(2) First aid and safety personnel may be informed, where appropriate, if the condition might require emergency treatment; and

(3) Government officials investigating compliance with section 504 of the Rehabilitation Act of 1973, as amended, shall be provided relevant information upon request.

§ 101-8.309 Program accessibility.

(a) *General.* No handicapped person shall, because a recipient's facilities are inaccessible to or unusable by handicapped persons, be denied the benefits of, be excluded from participation in, or be subjected to discrimination under any program or activity that receives or benefits from Federal assistance from GSA.

(b) *Program accessibility.* A recipient shall operate any program or activity to which this subpart applies so that the program or activity, when viewed in its entirety, is readily accessible to and usable by handicapped persons. This paragraph does not require a recipient to make each of its existing facilities or every part of a facility accessible to and usable by handicapped persons.

(c) *Methods.* A recipient may comply with the requirement of paragraph (a) of this section through such means as acquisition or redesign of equipment, such as telecommunications devices or other telephonic devices for the hearing impaired; reassignment of classes or other services to alternate sites which have accessible buildings; assignment of aides to beneficiaries, such as readers for the blind or qualified sign language interpreters for the hearing impaired when appropriate; home visits; delivery

of health, welfare, or other social services at alternate accessible sites; alterations of existing facilities and construction of new facilities in conformance with the requirements of § 101-8.310; or any other methods that result in making its program or activity accessible to handicapped persons. A recipient is not required to make structural changes in existing facilities where other methods are effective in achieving compliance with paragraph (a) of this section. In choosing among available methods for meeting the requirement of paragraph (a) of this section, a recipient shall give priority to those methods that offer programs and activities to handicapped persons in the most integrated setting appropriate.

(d) *Small service providers.* If a recipient with fewer than 15 employees finds, after consultation with a handicapped person seeking its services, that there is no available method of complying with paragraph (a) of this section other than making a significant alteration in its existing facilities, the recipient may, as an alternative, refer the handicapped person to other providers of those services that are accessible at no additional cost to the handicapped person.

(e) *Time period.* A recipient shall comply with the requirement of paragraph (a) of this section within 60 days of the effective date of this subpart, except that where structural changes in facilities are necessary, the changes are to be made as expeditiously as possible, but in no event later than 3 years after the effective date of this subpart.

(f) *Transition plan.* In the event that structural changes to facilities are necessary to meet the requirements of paragraph (a) of this section, a recipient shall develop, within 6 months of the effective date of this subpart, a transition plan setting forth the steps necessary to complete the changes. The plan shall be developed with the assistance of interested persons, including handicapped persons or organizations representing handicapped persons, and the plan must meet with the approval of the Director of Civil Rights, GSA. A copy of the transition plan shall be made available for public inspection. At a minimum, the plan shall:

(1) Identify physical obstacles in the recipient's facilities that limit the accessibility to and usability by handicapped persons of its program or activity;

(2) Describe in detail the methods that will be used to make the facilities accessible;

(3) Specify the schedule for taking the steps necessary to achieve full program accessibility and, if the time period or the transition plan is longer than 1 year, identify steps that will be taken during each year of the transition period; and

(4) Indicate the person responsible for implementation of the plan.

(g) *Notice.* The recipient shall adopt and implement procedures to ensure that interested persons, including persons with impaired vision or hearing, can obtain information concerning the existence and location of services, activities, and facilities that are accessible to, and usable by, handicapped persons.

§ 101-8.310 New construction.

(a) *Design and construction.* Each facility or part of a facility constructed by, on behalf of, or for the use of a recipient shall be designed and constructed in a manner that the facility or part of the facility is readily accessible to, and usable by, handicapped persons, if the construction began after the effective date of this subpart.

(b) *Alteration.* Each facility or part of a facility which is altered by, on behalf of, or for the use of a recipient after the effective date of this subpart in a manner that affects or could affect the usability of the facility or part of the facility shall, to the maximum extent feasible, be altered in a manner that the altered portion of the facility is readily accessible to and usable by handicapped persons.

(c) *GSA Accessibility Standard.* Design, construction, or alteration of facilities shall be in conformance with the "GSA Accessibility Standard," PBS (PCD); DG6, October 14, 1980. A copy of the standard can be obtained through the Business Service Centers, General Services Administration, National Capital Region, 7th and D Streets, SW., Washington, D.C. 20407 or Regional Business Service Centers, Region 1, John W. McCormack, Post Office and Courthouse, Boston, Massachusetts 02109; Region 2, 26 Federal Plaza, New York, New York 10007; Region 3, Ninth and Market Streets, Philadelphia, Pennsylvania 19107; Region 4, 75 Spring Street, SW., Atlanta, Georgia 30303; Region 5, 230 South Dearborn, Chicago, Illinois 60604; Region 6, 1500 East Bannister Road, Kansas City, Missouri 64131; Region 7, 819 Taylor Street, Fort Worth, Texas 76102; Region 8, Building 41, Denver Federal Center, Denver, Colorado 80225; Region 9, 525 Market Street, San Francisco, California 94105; Region 10, GSA Center, Auburn, Washington 98002.

In cases of practical difficulty, unnecessary hardship, or extreme differences, exceptions may be granted from the literal requirements of the above-mentioned standard, as defined in §§ 101-19.604 and 101-19.605 ("Exceptions" and "Waiver or modification of standards"), but only when it is clearly evident that equal facilitation and protection are thereby secured.

§ 101-8.311 Historic Preservation Programs.

(a) *Definitions.* For purposes of this section, the term:

(1) "Historic preservation programs" means programs receiving Federal financial assistance that has preservation of historic properties as a primary purpose.

(2) "Historic properties" means those properties that are listed or eligible for listing in the National Register of Historic Places.

(3) "Substantial impairment" means a permanent alteration that results in a significant loss of the integrity of finished materials, design quality or special character.

(b) *Obligation.*—(1) *Program accessibility.* In the case of historic preservation programs, program accessibility means that, when viewed in its entirety, a program is readily accessible to and usable by handicapped persons. This paragraph does not necessarily require a recipient to make each of its existing historic properties or every part of an historic property accessible to and usable by handicapped persons. Methods of achieving program accessibility include:

(i) Making physical alterations which enable handicapped persons to have access to otherwise inaccessible areas or features of historic properties;

(ii) Using audio-visual materials and devices to depict otherwise inaccessible areas or features of historic properties;

(iii) Assigning persons to guide handicapped persons into or through otherwise inaccessible portions of historic properties;

(iv) Adopting other innovative methods to achieve program accessibility.

Because the primary benefit of an historic preservation program is the experience of the historic property itself, in taking steps to achieve program accessibility, recipients shall give priority to those means which make the historic property, or portions thereof, physically accessible to handicapped individuals.

(2) *Waiver of accessibility standards.* Where program accessibility cannot be

achieved without causing a substantial impairment of significant historic features, the Administrator may grant a waiver of the program accessibility requirement. In determining whether program accessibility can be achieved without causing a substantial impairment, the Administrator shall consider the following factors:

(i) Scale of property, reflecting its ability to absorb alterations;

(ii) Use of the property, whether primarily for public or private purpose;

(iii) Importance of the historic features of the property to the conduct of the program; and

(iv) Cost of alterations in comparison to the increase in accessibility. The Administrator shall periodically review any waiver granted under this section and may withdraw it if technological advances or other changes so warrant.

(c) *Advisory Council comments.*

Where the property is federally owned or where Federal funds may be used for alterations, the comments of the Advisory Council on Historic Preservation shall be obtained when required by section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), and 36 CFR Part 800, prior to effectuation of structural alterations.

§ 101-8.312 Procedures.

The procedural provisions of Title VI of the Civil Rights Act of 1964 are adopted and stated in §§ 101-6.205-215 and apply to this subpart. (Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c)).

§ 101-8.313 Self-evaluation.

(a) *Procedures.* Each recipient shall, within one year of the effective date of this part:

(1) Whenever possible, evaluate, with the assistance of interested persons, including handicapped persons or organizations representing handicapped persons, its current policies and practices and the effects thereof that do not or may not meet the requirements of this Part;

(2) Modify any policies and practices which do not or may not meet the requirements of this part; and

(3) Take appropriate remedial steps to eliminate the effects of discrimination which resulted or may have resulted from adherence to these questionable policies and practices.

(b) *Availability of self-evaluation and related materials.* Recipients shall maintain on file, for at least three years following its completion, the evaluation required under paragraph (a) of this section, and shall provide to the

Director, upon request, a description of any modifications made under paragraph (a)(2) of this section and of any remedial steps taken under paragraph (a)(3) of this section.

**Subparts 101-8.4—101-8.7
[Reserved]**

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 82-15833 Filed 6-10-82; 8:45 am]

BILLING CODE 6820-34-M

**FEDERAL COMMUNICATIONS
COMMISSION**

47 CFR Parts 2 and 73

[BC Docket No. 81-896; FCC 82-227]

**Use of the AM Carrier for Utility Load
Management Purposes**

AGENCY: Federal Communications
Commission.

ACTION: Final rule (Report and Order).

SUMMARY: Action taken herein resolves the issue raised in the Commissions Notice of Proposed Rule Making adopted December 17, 1981 proposing to permit utility load management signals to be transmitted through the AM broadcast carrier as long as they do not degrade AM main channel broadcasting. This use currently is not permitted. As with FM subsidiary communication authorization (SCA) load management considered in Docket No. 81-352, concerning use of SCA for utility load management, use of the AM carrier would allow expansion of load management communication alternatives for utilities. This authorization appears to offer valuable energy conservation and cost saving possibilities. The Commission is amending its rules to permit this use, finding it to be in the public interest.

DATE: Effective July 1, 1982.

FOR FURTHER INFORMATION CONTACT:
Norman Plotkin, Broadcast Bureau, (202)
632-6302.

SUPPLEMENTARY INFORMATION:

List of Subjects

47 CFR Part 2

Radio.

47 CFR Part 73

Radio broadcast.

**Report and Order (Proceeding
Terminated)**

Adopted: May 13, 1982.

Released: May 25, 1982.

In the matter of amendment of Parts 2 and 73 of the Commission's AM rules with reference to the use of the AM carrier for utility load management purposes, BC Docket No. 81-896.

1. On December 17, 1981, the Commission adopted a Notice of Proposed Rule Making (47 FR 1308, published January 12, 1982) proposing an amendment to its AM broadcast rules which would authorize a new use of the AM carrier that could enhance national energy conservation efforts. The amendment would permit AM radio stations, including public broadcasting AM stations, to use the AM carrier for utility load management purposes. This same authorization was given for FM station subcarriers in the recently approved *Report and Order* in FM utility load management.¹ Specifically, in the *FM Order*, the Commission approved the use of FM subsidiary communications authorizations (SCA's) for energy load management applications by utilities. Comments received in the FM utility load management docket urged the expansion of utility load management alternatives to include the use of AM carrier signals. Upon consideration of these comments, the Commission decided that such an authorization clearly appeared to be in the public interest as long as use of AM carriers for this purpose did not interfere with or degrade main channel AM broadcasting. This protection of main channel broadcasting was proposed as a basic requirement for the acceptability of any AM utility load management method used.² After reviewing the overwhelmingly positive comments received for this proposed action and carefully evaluating the small number of negative reservations expressed, the Commission has decided to adopt the proposal with this *Report and Order*.

2. It appeared to the Commission when it adopted its Notice that the same strong energy conservation case for authorizing utility load management was as valid for the AM carrier as for the FM SCA. As we summarized in the Notice: "[The] public interest would be furthered by expanding utility load management communication alternatives to include both FM SCA and AM carrier methods * * * (because) it appears that: (a) They offer valuable energy conservation and cost-saving possibilities by helping fulfill a critical need for load management alternatives

suitable to the diverse situations and cost capabilities of utilities; (b) they offer this possibility at a time when utilities are in a search, demonstration and implementation process for load management techniques that are best suited to their individual situation; and (c) with respect to using the AM carrier, one such method has been demonstrated in an on-air test."³

Comments

3. An expanded summary of the comments is set forth below. In brief, however, all twenty-one comments received in response to the Notice supported the proposed authorization, while more than half expressed some reservations. Only one comment expressed serious reservations. However, this party failed to provide any substantiating details regarding its concerns. Of the six reply comments that were filed, four strongly defended the current proposal, while two reinforced the negative reservations expressed during the comment period and urged postponement pending further evaluation of these reservations by the Commission. The views expressed in the comments have been categorized below.

4. *Unqualified approval.* Ten commenters favored the proposed action without qualification. These were made up of four utility and four broadcasting organizations and two equipment producers. As part of these comments, the American Public Power Association stated that such action "should assure that virtually 100% of the electric utility industry would have the option of using commercial radio as a load management communication alternative." The Hearst Corporation, a broadcast licensee, asserted: "If the rule is adopted as proposed, the uses of AM radio in serving community needs would clearly be enlarged and enhanced." National Public Radio noted that most of the 27 current NPR member AM stations "have all news and information formats. These formats are the most expensive to implement and the most difficult for which to raise money * * * The prospect of AM SCA operations is a welcome addition to the list of potential sources of such funding."

5. *Broad uses of AM carriers.* In addition to prompt adoption of the current action, expanded use of the AM carrier was urged by six commenters. These were predominantly broadcasters and the American Foundation for the Blind. Essentially, they felt the proceeding was too narrowly focused.

¹ 47 FR 1386, January 13, 1982.

² In the AM utility load management Notice (47 FR 1308, January 12, 1982), the Commission stated, "This proposal does not confine AM carrier use for utility load management to a particular technique but allows the use of any method that meets these safeguards".

³ Notice of Proposed Rule Making, 47 FR 1308 at paragraph 4.

Anxious about the future status of Radio Reading and Information Services (RRIS) on FM SCA's, the American Foundation for the Blind stated:

"Certainly the use of AM carriers will potentially diminish any adverse effect on RRIS for the competitive use of FM SCA's * * * The Commission should allow AM carriers to be used for any purpose which provides the safeguards referred to in paragraphs 2 and 5 of the docket." Describing this Notice as "an important first step," McKenna, Wilkinson and Kittner (MWK) states: "The Commission should not * * * limit expanded uses of the AM carrier to utility load management functions. There are no sound engineering or policy reasons for postponing consideration of broader broadcast carrier uses * * * (It) urges the Commission to move forward with a broad rulemaking * * * In the same vein, the National Association of Broadcasters urged the Commission "to abandon this piecemeal approach to a larger issue and initiate [action] to give commercial radio broadcasters complete discretion as to how they will utilize their FM SCA's or AM signals for the provision of new services in the public interest."

6. *Compatibility and interference problems.* Four commenters expressed technical reservations with reference to the possibility of main channel interference to load management AM modulation techniques, and the compatibility of such techniques to a "market-based solution" for selection of an AM stereophonic broadcasting system. These commenters were equipment producers and the Electronic Industries Association (EIA). Vedette Energy Research, Inc. noted that "AM frequencies are subject to significant skywave propagation after sunset. Since load management systems are frequently required to be used during the evening hours, such propagation can result in substantial cochannel and adjacent channel interference at great distances." "They stated their belief that one station's load management system could thus interfere at night with a distant station's load management system. In its reply comments Vedette also called attention to the possible "deleterious effect on the bearing function" of existing ADF navigation receivers for aircraft.⁵ While approving

⁵ Vedette recommended two ways for the Commission to treat this problem: (1) Restrict AM load management systems to clear channel stations or (2) develop a system of allocations to avoid potential interference.

⁶ Vedette here refers to the comment by King Radio Corporation that some problems of interference could occur with certain types of ADF

the underlying purpose of the proceeding, it urged the Commission to move cautiously on this new and, as yet, experimental technology "because of the possible ramification of channel interference, and its possible effect on AM stereo and aerial navigation."

7. With further regard to AM stereo, the EIA pointed out that "If the Commission chooses the so called 'marketplace approach' and authorizes all five systems, then the stage would be set for compatibility problems. Specifically, EIA felt that load management transmissions could cause false triggering of receiver AM stereo recognition circuits with one or more of the proposed AM stereophonic broadcast systems."⁶

8. In its reply comments addressing these issues, Westinghouse Broadcasting stated: "Any adverse effect of skywave interference can easily be avoided by an AM station. Many AM stations have strong enough signals so that skywave interference has no noticeable effect. Other AM stations can avoid the effect simply by using either a coded tone or a dual tone signal * * * (o)nce a particular stereo system with specified pilot tone characteristics is selected—whether by the Commission or by a broadcaster choosing among systems in the marketplace—a compatible load management system can be designed."

9. *Commercial stations only.* The National Association of Broadcasters (NAB) recommended that this proceeding be limited to commercial AM stations, stating: "There are a number of unresolved policy issues concerning the allowable commercial activities of public stations—activities which now are under study by the Temporary Commission on Alternative Financing for Public Telecommunications * * * It would appear that consideration of the noncommercial AM utility load management should be deferred until after the Temporary Commission submits its report to Congress on July 1, 1982."

10. On the other hand, National Public Radio argues that public radio AM stations " * * * especially need to have access to every means of alternative financing." They firmly support the inclusion of public broadcasters in any Commission action in this area.

11. *Patent limitations.* One commenter, an equipment producer,

navigation receivers for aircraft. However, no information was submitted to the Commission to verify this claim.

⁶ The Commission approved a marketplace determination to selection of an AM stereo system on March 4, 1982 (released March 18, 1982).

approved of the proposal but with some reservation, fearing that the patent rights of Altran Electronic Products might be an impediment to AM load management equipment supply competition. In its reply comments, the commenter, TFT, Inc., requested a postponement of any action in this proceeding to afford the Commission an opportunity to evaluate the effect of such patents on competition in this area. In support of its request, TFT, Inc., stated that "It would appear to be contrary to public policy for the Commission to establish without proper investigations technical standards that are requested by owners of patent rights which technical standards will result in the lessening of competition and a restraint of competition among suppliers of broadcast equipment and radio apparatus." No other commenter expressed concern regarding Altran's patent. A number of other commenters, however, did support the Commission's expressed intention to permit any non-interfering AM load management system to operate.

Discussion

12. *Compatibility and interference problems.* In authorizing a marketplace determination in the AM stereo proceeding, the Commission recognized the compatibility and channel interference possibilities and the potential complications to AM load management transmissions. Thus, we are aware that this area may constitute a problem which parties interested in AM load management will have to take into account in their actions. However, we do not feel that the degree of concern expressed in the comments is warranted given the solutions and choices available to the AM licensee to overcome or avoid the interference factors. Those designing and installing load management systems will be expected to take these factors into account in setting up their systems. In this regard, a coded or otherwise "protected" system would not respond to load management directions that intrude on the relevant service area by skywave propagation.⁷ Thus, users have a natural incentive to protect their load management systems by coding or taking other protective measures since no Commission regulations are required.

13. With reference to the compatibility of AM stereo and load management systems, such compatibility is not at all precluded. In this regard, we are in agreement with the comments expressed

⁷ This may occur even though such interference is not objectionable from a broadcast point of view.

by Westinghouse Broadcasting. There appears to be no reason why an AM licensee cannot make choices that assure compatible systems by picking a particular AM stereo system and then using a load management system compatible with it. Alternatively, an AM licensee can decide to give priority to one use over another by choosing an AM stereo system and foregoing load management use, or the reverse.

14. One problem that could arise is that a licensee could choose a load management system frequency which was the same as the pilot frequency of an AM stereo system that was in use by another station. If this occurred, no interference problem would be created for other stations. However, listeners with receivers designed for the other station's stereo system could face adverse reception effects when tuned to the station transmitting the load management signal. Such effects could range from erroneously turning on the stereo indicator light to switching the receiver into a stereo mode and perhaps introducing noise in the reception.

15. Obviously, such a situation is one which should be avoided by licensees. The Commission feels that strong incentives exist for licensees not to choose load management system frequencies that will alienate or even eliminate a portion of their listening audience. Therefore, we feel that no specific Commission action is required to avoid this possibility. However, we do wish to alert licensees, AM stereo designers, load management system designers, and others to the possible problem so that diversive action may be taken. For informational purposes, we also note that submissions to the Commission during the AM stereo proceeding indicate that the five existing AM stereo systems have located their subaudible pilot tones at the following frequencies: Magnavox—5 Hz; Belar—10 Hz; Kahn—15 Hz; Motorola—25 Hz, and Harris—55 to 96 Hz (a sweeping tone). Although no restrictions are being placed on either AM stereo pilot tones or load management signals as to which frequencies they must use, it is noted that load management systems would avoid any possible interference problems by using the frequency opening that currently exists between 25 and 55 Hz and we think licensees should consider locating their load management signals in that range.

16. *Commercial stations only.* We do not agree with the recommendation that any authorization of AM carriers for utility load management should be limited to commercial AM stations. The Commission has recently issued a

Notice of Proposed Rule Making⁸ which proposes to allow the use of public broadcasting FM SCA's for profit purposes on a basis comparable to that of commercial FM stations. The public broadcasting AM stations are not part of the FM Notice, but, as the public broadcasters' comments herein reflect, they too have strong needs for additional revenue sources. Unless they are included in this AM authorization, they would be unable to use their AM carriers both for additional needed revenue and for energy conservation purposes. We therefore conclude that the public interest would best be served by including AM public broadcasting licensees in our AM carrier authorization.

17. *Patent limitations.* We have also concluded that there is no justification for postponement of this action on the basis of the patent argument made by TFT, Inc. First, TFT, Inc. is in error if it implies that the Commission intended to use this proceeding to establish technical standards as requested by the owner of patent rights to such standards. On the contrary, the Commission specifically decided against such a narrow rule making. As indicated in note 2, *supra*, the Notice proposed allowing the use of *any method* that does not disrupt or degrade regular programs. Second, based upon the views expressed in the comments received and the information we have available,⁹ we believe that there are a variety of AM utility load management methods available. Accordingly, we anticipate the existence of reasonable competition within the AM load management field. Finally, the Commission feels that the relevant competitive market is load management in general, not merely AM load management as suggested by some of the commenters in this proceeding. The Commission feels that competition among the many possible load management techniques is sufficient to result in efficient resource use in the public interest.¹⁰

18. *Broad uses of AM carriers.* The Commission notes the strong interest shown by a number of commenters with respect to a wide variety of uses of AM

carriers. These requests will not be considered in this proceeding since they are beyond the purview of the Notice. Nevertheless, the Commission will seriously consider these views in determining possible future actions in this field.

19. In light of the above discussion, the Commission rejects the arguments of those who wish to postpone or restrict the proposed action in this proceeding. Instead, the Commission adopts its proposal to authorize AM carrier use for utility load management purposes with the proviso that such use does not disrupt or degrade regular broadcasts of AM stations.

20. Pursuant to the Regulatory Flexibility Act of 1980, the Commission's final regulatory flexibility analysis is as follows:

I. Need for and Purpose of the Rule

The Commission has concluded that the national energy conservation effort in the U.S. could be enhanced by permitting the use of AM carrier signals as an additional load management technique. Such use is not currently permitted and would open another choice to utilities in their energy conservation efforts as well as offering an additional revenue source for AM licensees. It also will allow the more efficient utilization of our nation's scarce radio spectrum.

II. Summary of Issues Raised by Public Comment in Response to the Initial Regulatory Flexibility Analysis, Commission Assessment, and Changes Made as a Result

A. Issues Raised

1. Only one issue was raised that appeared to be contrary to the positive effects expected for small business units in the initial regulatory flexibility analysis. One commenter expressed concern that patent rights held by one AM load management equipment producer would give that producer monopoly power in the AM load management field and would prevent other equipment suppliers from competing in this area.

B. Assessment

1. The Commission concludes that this claim was not justified by the facts. The technical parameters established by the Commission in this proceeding to protect against interference are not so narrow that they would be covered by any existing patent rights. On the contrary, the Commission decided to allow the use of any method of AM load management that does not disrupt or degrade regular programs. Under this

⁸47 FR 2384, January 15, 1982.

⁹The record in this proceeding includes a study by the Canadian Electronics Association listing several methods by which an AM carrier may be used for load management. "Development of a Load Control Scheme Utilizing AM Broadcast Radio", Final Report, CEA Research Project 77-41, January, 1978. Canadian Electronics Association.

¹⁰With reference to this patent issue, the Commission herein denies a motion to file additional comments by Sigma Instruments, Inc. In addition to being late filed, the comments did not contain new information and would not affect the Commission's findings in this proceeding.

open approach, the Commission anticipates, from the comments received and other information available to it, that a variety of AM load management techniques will be available and that reasonable competition can be expected.

C. Changes Made as a Result of Such Comments

None.

III. Significant Alternatives Considered and Rejected

The Commission's alternative would be to forego the action proposed in this proceeding. Such inaction would not permit it to accomplish the beneficial objective sought in this rule making.

21. Authority for adoption of the rules herein is contained in sections 2, 4(i) and 303 of the Communications Act of 1934, as amended.

22. Accordingly, it is ordered, that Parts 2 and 73 of the Commission's rules are amended as set forth in the attached Appendix, effective July 1, 1982.

§ 2.106 Table of frequency allocations.

FEDERAL COMMUNICATIONS COMMISSION

Band (kHz)	Service	Class of station	Frequency (kHz)	Nature of services of stations
7	8	9	10	11
535-1605 (US15) (NG16) (NG128)	Broadcasting			AM broadcasting.

NG128 In the band 535-1605 kHz, AM broadcast licensees or permittees may use their AM carrier to transmit signals intended for utility load management. In the band 88-108 MHz, FM broadcast licensees or permittees may be granted a Subsidiary Communications Authorization (SCA) to transmit signals intended for utility load management.

2. Section 2.1001 is amended by adding new paragraph (h) to read as follows:

§ 2.1001 Changes in type accepted equipment.

(h) The interconnection of a utility load management exciter with a type accepted AM broadcast transmitter in accordance with the manufacturer's instructions and completion of equipment performance measurements showing the transmitter meets the minimum performance requirements applicable thereto is defined as a Class I permissive change for compliance with this Section.

PART 73—RADIO BROADCAST SERVICES

3. Subpart A of Part 73 is amended by adding new § 73.127 to read as follows:

§ 73.127 Use of multiplex transmission.

The licensee of an AM broadcast station may use its AM carrier to transmit signals not audible on ordinary

23. It is further ordered that this proceeding is terminated.

24. For further information concerning this proceeding, contact Norman Plotkin, Broadcast Bureau, (202) 632-6302.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303.)

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

Parts 2 and 73, of the Federal Communications Commission's Rules and Regulations are amended as follows:

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

1. Section 2.106, the National Table of Frequency Allocations, is amended by adding footnote designator NG128 in column 7 in the band 535-1605 kHz, and by revising footnote NG128 in the list of footnotes which follow the Table.

consumer receivers, for utility load management purposes subject to the following requirements:

(a) Such use does not disrupt or degrade the station's own programs or the programs of other broadcast stations.

(b) In all arrangements entered into with outside parties with reference to such use, the licensee or permittee must retain control over all uses and signals transmitted over the station's facilities, with the right to reject any material which it claims inappropriate or undesirable.

(c) Installation of the multiplex transmitting equipment conforms with the requirements of § 73.1690(e)(5).

4. Section 73.1690 is amended by adding new paragraph (e)(6) to read as follows:

§ 73.1690 Modification of transmission systems.

(e) * * *

(6) Modification of the transmitter for utility load management operations with

an exciter unit that has been designed for interfacing with the type accepted transmitter with which it is to be used in accordance with the following:

(i) The combination of the utility load management exciter and transmitter meets the minimum specifications given in §§ 73.40 and 73.44.

(ii) The frequency stability requirements of § 73.1545(a) must be maintained.

[FR Doc. 82-15604 Filed 6-10-82; 8:45 am]

BILLING CODE 6712-01-M

7 CFR Part 73

[BC Docket No. 82-64; RM-4014]

FM Broadcast Station in Lakeview, Michigan; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns Channel 292A to Lakeview, Michigan, in response to a petition filed by Daniel L. Pettengill. The assigned channel could provide a first FM service to Lakeview.

DATE: Effective August 3, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Adopted: May 26, 1982.

Released: June 2, 1982.

Report and Order (Proceeding Terminated)

In the matter of an amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Lakeview, Michigan); BC Docket No. 82-64, RM-4014.

1. The Commission has under consideration a Notice of Proposed Rule Making, 47 FR 7274, published February 18, 1982, proposing the assignment of Channel 292A to Lakeview, Michigan, as that community's first FM assignment, in response to a petition filed by Daniel L. Pettengill ("petitioner"). Comments in support of the proposal were filed by the petitioner. No oppositions to the proposal were received.

2. Lakeview (population 1,139),¹ in Montcalm County (population 7,555), is located approximately 216 kilometers (135 miles) northwest of Detroit, Michigan. It is without local broadcast service.

3. In his comments to the proposal, petitioner incorporated by reference the information contained in the *Notice* demonstrating the need for a first FM assignment to Lakeview. Petitioner also reaffirmed his interest in applying for the channel, if assigned.

4. Canadian concurrence in the assignment has been received.

5. The Commission has determined that the public interest would be served by assigning Channel 292A to Lakeview, Michigan, since it would provide the community with an opportunity for its first local FM broadcast service.

6. Accordingly, pursuant to the authority contained in sections 4(i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.204(b) and 0.281 of the Commission's rules, it is ordered, That effective August 3, 1982, § 73.202(b) of the Commission's rules is amended with regard to the following community:

City	Channel No.
Lakeview, Michigan	292A

7. It is further ordered, That this proceeding is terminated.

8. For further information concerning this proceeding, contact Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82-15795 Filed 6-10-82; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 82-3, RM-3970]

FM Broadcast Station in Mangum, Oklahoma; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns Channel 221A to Mangum, Oklahoma, in response to a petition filed by Mangum Broadcasting, Inc. The assigned channel

could provide a first FM service to Mangum.

DATE: Effective August 3, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Report and Order (Proceeding Terminated)

Adopted: May 26, 1982.

Released: June 2, 1982.

In the matter of an amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Mangum, Oklahoma); BC Docket No. 82-3, RM-3970.

1. The Commission has under consideration a Notice of Proposed Rule Making, 47 FR 2893, published January 20, 1982, proposing the assignment of Channel 221A to Mangum, Oklahoma, as that community's first FM assignment in response to a petition filed by Mangum Broadcasting, Inc. ("petitioner"). Comments in support of the proposal were filed by the petitioner. No oppositions to the proposal were received.

2. Mangum (population 4,066),¹ seat of Greer County (population 7,979), is located approximately 192 kilometers (120 miles) southeast of Oklahoma City, Oklahoma. It has no local broadcast service.

3. In its comments, the petitioner restated the need for an FM assignment to Mangum and urged the Commission to adopt its proposal. Petitioner also stated its intention to apply for Channel 221A, if assigned.

4. The Commission has determined that the public interest would be served by assigning Channel 221A to Mangum, Oklahoma, since it would provide the community with its first local FM broadcast service.

5. Accordingly, pursuant to the authority contained in sections 4(i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.204(b) and 0.281 of the Commission's rules, it is ordered, That effective August 3, 1982, § 73.202(b) of the Commission's rules is amended with regard to the following community:

¹ Population figures are derived from the 1970 U.S. Census.

City	Channel No.
Mangum, Oklahoma	221A

6. It is further ordered, That this proceeding is terminated.

7. For further information concerning this proceeding, contact Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

(Secs. 4, 803, 48 stat., as amended, 1068, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82-15796 Filed 6-10-82; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 81-816; RM-3948, RM-4031]

FM Broadcast Stations in Mathis, Robstown and Odem, Texas; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action deletes unused FM Channel 252A from Mathis, Texas, and reassigns it to Odem, Texas, as its first local aural broadcast service (as requested by Reina Broadcasting) rather than assigning it to Robstown, Texas, as its second FM channel (as requested by Humberto Lozano Lopez).

DATE: Effective August 3, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Philip S. Cross, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Report and Order (Proceeding Terminated)

Adopted: May 26, 1982.

Released: June 2, 1982.

In the matter of an amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Mathis) Robstown and Odem, Texas; BC Docket No. 81-816, RM-3948, RM-4031.

1. A Notice of Proposed Rule Making in this proceeding was published in the *Federal Register* on December 3, 1981 (46 FR 48726). The Notice was issued in response to a petition filed by Humberto Lozano Lopez ("petitioner"). Petitioner

¹ This community has been added to the caption.

¹ Population figures are taken from the 1980 U.S. Census, Advance Report.

requested that FM Channel 252A be deleted from Mathis, Texas, where it is unused, and reassigned to Robstown, Texas.

2. Reina Broadcasting ("Reina") filed comments and a counterproposal requesting the reassignment of Channel 252A from Mathis, Texas, to Odem, Texas.

3. Petitioner filed comments in support of its proposal and reply comments opposing Reina's counterproposal. A letter was submitted by the Mayor of Robstown in support of petitioner's proposal.

4. The distance between Robstown and Odem is approximately 12 miles. Channel 252A cannot be assigned to both communities in compliance with our mileage separation requirements which require a separation of 65 miles. See § 73.207(b) of the Commission's rules. No other Class A channel can be assigned to Robstown or Odem.

5. Robstown (population 12,100),² in Nueces County (population 268,215), is located approximately 24 kilometers (15 miles) west of Corpus Christi. It has two local aural broadcast services, Stations KROB(AM) and KROB-FM, Channel 260. Odem (population 2,363), in San Patricio County (population 58,013), is located approximately 24 kilometers (15 miles) northwest of Corpus Christi. It has no local broadcast service.

6. Reina supports its counterproposal with the claim that there is a particular need for Spanish language programming in the Odem area. The only other media outlet in Odem, Reina states, is a weekly newspaper printed in English. Reina further states that the lack of local service is particularly acute in the case of weather emergencies, especially during the hurricane season. Thus, Reina argues that Odem should receive the channel assignment because it would be a first local aural service whereas an assignment to Robstown would give the community its third aural service and its second FM channel. Reina states that it will apply for operation on the channel, if it is assigned to Odem.

7. In response, petitioner states that it would provide a much needed Spanish outlet to serve the 10,455 persons of Hispanic descent in Robstown. Petitioner opposes the Odem counterproposal, contending that a Spanish service to the 10,455 persons of Hispanic descent in Robstown would provide a more efficient use of the channel than a Spanish service to the 1,674 persons of Hispanic descent in Odem. Petitioner states that Odem will not financially support a station and

that the large market of Corpus Christi would have to be relied upon for revenues. According to petitioner, Reina is not chartered by the Secretary of the State of Texas to do business in Texas, nor registered for use as an assumed name as of January 11, 1982. Thus, petitioner questions whether a company "which does not exist as far as the Secretary of State is concerned can pledge to apply for and build a radio station."

8. Channel 252A was assigned to Mathis, Texas, in 1973. It remains unused. In view of the lack of interest in a Mathis station, we believe the public interest may be better served by putting to use a vacant frequency if there is no interest in its use at the place of assignment.

9. As to petitioner's challenge of Reina's qualifications, we know of no impediment to Reina's becoming a licensee. Petitioner has not pointed to any reasons that Reina could not register to do business in Texas. We shall assume that Reina would take the appropriate steps to become incorporated if it desires to do so.

10. In view of the showing before us, we believe that the public interest would be served by deleting Channel 252A from Mathis and reassigning it to Odem. Assignment of the channel to Odem is in accord with our higher priority of providing a first local aural service to a community. Assignment to Robstown would give that community its third local aural service and its second local FM channel. See *Anamosa and Iowa City, Iowa*, 46 FCC 2d 520 (1974), restating the Commission's priorities first set forth in *FM Unlimited, Inc.*, 27 FR 7797 (1962).

11. Mexican coordination has been received for Odem.

12. Authority for the adoption of the amendment herein is contained in sections 4(i), 5(d)(1), 303(g) and (r) of the Communications Act of 1934, as amended, and §§ 0.204(b) and 0.281 of the Commission's rules.

13. Accordingly, it is ordered, That effective August 3, 1982, § 73.202(b) of the Commission's rules, the FM Table of Assignments, is amended with regard to the following communities:

City	Channel No.
Mathis, Texas.....	
Odem, Texas.....	252A

14. It is further ordered, That this proceeding is terminated.

15. For further information concerning this proceeding, contact Philip S. Cross, Broadcast Bureau, (202) 632-5414.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,
Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82-15797 Filed 6-10-82; 8:45 am]

BILLING CODE 6712-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1033

[Service Order No. 1473]

Various Railroads Authorized To Use Tracks and/or Facilities of the Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee)

AGENCY: Interstate Commerce Commission.

ACTION: Corrected Thirty-seventh Revised Service Order No. 1473.

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, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, 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: 12:01 a.m., June 1, 1982, and continuing in effect until 11:59 p.m., September 30, 1982, unless otherwise modified, amended or vacated by order of this Commission.

FOR FURTHER INFORMATION CONTACT: M. F. Clemens, Jr., (202) 275-7840 or 275-1559.

SUPPLEMENTARY INFORMATION:

Decided: June 7, 1982.

Pursuant to Section 122 of the Rock Island Railroad Transition and Employee Assistance Act, Pub. L. 96-254 (RITEA), the Commission is authorizing various railroads to provide interim service over Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee), (RI) and to use such tracks and facilities as are necessary for those operations.

In view of the urgent need for continued rail service over RI's lines pending the implementation of long-range solutions, this order permits carriers to provide service to shippers which may otherwise be deprived of essential rail transportation.

² Population figures are derived from the 1980 U.S. Census, Advance Report.

Appendix A, to the previous order, is revised by adding at Item 18, the authority for the Iowa Railroad Company (IRRC) to extend its operations from Rock Island, Illinois to Dexter, Iowa, a distance of approximately 212 miles, and between Altoona and Pella, Iowa, a distance of approximately 47 miles. A portion of this operation was previously provided by Chicago and North Western Transportation Company (CNW), which authority is vacated by this order. Appendix A is further revised by adding at Item 28, the authority for a new operator, the Okarche Central Railway, Inc. (OCRI), to operate between Enid and El Reno, Oklahoma, a distance of approximately 59 miles. OCRI also requested authority to operate between El Reno and Council, Oklahoma, and at El Reno, however, that authority is currently held by the North Central Oklahoma Railway, Inc. (NCOR). There has been no indication by either the Trustee or NCOR that NCOR's agreement to operate those segments has terminated. Moreover, OCRI's application is silent with respect to the overlapping segments. Therefore, that portion of the application is granted to OCRI as overlapping authority with NCOR to assure that shippers will continue to receive service while OCRI establishes divisions and interchange agreements. At such time as OCRI and NCOR mutually agree on terms for handling NCOR traffic over the overlapping segments, the order may be modified to reflect such agreement.

In Appendix A, the following corrections are made:

1. The milepost designation for West Des Moines, Iowa, should read milepost 364.34 instead of 363.34 in Items 5, E, and 18, A, and D.

2. The authority of the Iowa Railroad Company to operate between Altoona and Pella, Iowa, which was inadvertently omitted, is inserted as Item 18, J.

Appendix B of Thirteenth Revised Service Order No. 1473 is unchanged, and becomes Appendix B to this Order.

It is the opinion of the Commission that an emergency exists requiring that the railroads listed in the named appendices be authorized to conduct operations using RI tracks and/or facilities; that notice and public procedure are impracticable and contrary to the public interest; and good cause exists for making this order effective upon less than thirty days' notice.

It is ordered,

§ 1033.1473 Service Order No. 1473.

(a) Various railroads authorized to use tracks and/or facilities of the Chicago, Rock Island and Pacific Railroad Company, debtor (William M. Gibbons, Trustee). Various railroads are authorized to use tracks and/or facilities of the Chicago, Rock Island and Pacific Railroad Company (RI), as listed in Appendix A to this order, in order to provide interim service over the RI; and as listed in Appendix B to this order, to provide for continuation of joint or common use facility agreements essential to the operations of these carriers as previously authorized in Service Order No. 1435.

(b) The Trustee shall permit the affected carriers to enter upon the property of the RI to conduct service as authorized in paragraph (a) of this section.

(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. Termination of interim operations will require at least (30) thirty days notice to the Railroad Service Board and affected shippers.

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

(f) During the period of the operations over the RI lines authorized in paragraph (a) of this section, operators shall be responsible for preserving the value of the lines, associated with each operation, to the RI estate, and for performing necessary maintenance to avoid undue deterioration of lines and associated facilities.

(1) In those instances where more than one railroad is involved in the joint use of RI tracks and/or facilities described in Appendix B, one of the affected carriers will perform the maintenance and have supervision over the operations in behalf of all the carriers as may be agreed to among themselves, or in the absence of such agreement, as may be decided by the Commission.

(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 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 the operations described in Appendix A by interim operators over tracks previously operated by the RI are 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 RI, until tariffs naming rates and routes specifically applicable become effective.

(k) In transporting traffic over these lines, all interim operators described in Appendix A 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. Divisions 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) To the maximum extent practicable, carriers providing service under this order shall use the employees who normally would have performed the work in connection with traffic moving over the lines subject to this Order.

(m) *Effective date.* This order shall become effective at 12:01 a.m., June 1, 1982.

(n) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., September 30, 1982, unless otherwise modified, amended, or vacated by order of this Commission.

(49 U.S.C. 10304, 10305, and sec. 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.

List of Subjects in 49 CFR Part 1033

Railroads.

By the Commission, Railroad Service Board, members J. Warren McFarland, Bernard Gaillard, and John H. O'Brien. J. Warren McFarland not participating.
Agatha L. Mergenovich,
Secretary.

Appendix A.—RI Lines Authorized to be Operated by Interim Operators

1. Louisiana and Arkansas Railway Company (LA):

A. Tracks one through six of the Chicago, Rock Island and Pacific Railroad Company's (RI) Cadiz yard in Dallas, Texas, commencing at the point of connection of RI track six with the tracks of The Atchison, Topeka and Santa Fe Railway Company (ATSF) in the southwest quadrant of the crossing of the ATSF and the Missouri-Kansas-Texas Railroad Company (MKT) at interlocking station No. 19.

2. Peoria and Pekin Union Railway Company (PPU):

A. All Peoria Terminal Railroad property on the east side of the Illinois River, located within the city limits of Peoria, Illinois.
B. Mossville, Illinois (milepost 148.23) to Peoria, Illinois (milepost 161.0) including the Keller Branch (milepost 1.55 to 6.15).

3. Union Pacific Railroad Company (UP):

A. Beatrice, Nebraska.
B. Approximately 36.5 miles of trackage extending from Fairbury, Nebraska, to RI Milepost 581.5 north of Hallam, Nebraska.

4. Toledo, Peoria and Western Railroad Company (TPW):

A. Peoria Terminal Company trackage from Hollis to Iowa Junction, Illinois.

5. Chicago and North Western Transportation Company (CNW):

A. from Minneapolis-St. Paul, Minnesota, to Kansas City, Missouri.

B. from Rock Junction (milepost 5.2) to Inver Grove, Minnesota (milepost 0).

C. from Inver Grove (milepost 344.7) to Northwood, Minnesota.

D. from Clear Lake Junction (milepost 191.1) to Short Line Junction, Iowa (milepost 73.6).

* * * E. from East Des Moines, Iowa (milepost 350.8) to West Des Moines, Iowa (milepost 364.34).

F. from Short Line Junction (milepost 73.6) to Carlisle, Iowa (milepost 64.7).

G. from Carlisle (milepost 64.7) to Allerton, Iowa (milepost 0).

H. from Allerton, Iowa (milepost 363) to Trenton, Missouri (milepost 415.9).

I. from Trenton (milepost 415.9) to Air Line Junction, Missouri (milepost 502.2).

J. from Iowa Falls (milepost 97.4) to Estherville, Iowa (milepost 206.9).

K. from Briceyn, Minnesota (milepost 57.7) to Ocheyedan, Iowa (milepost 246.7).

L. from Palmer (milepost 454.5) to Royal, Iowa (milepost 502).

M. from Dows (milepost 113.4) to Forest City, Iowa (milepost 158.2).

N. from Cedar Rapids (milepost 100.5) to Cedar River Bridge, Iowa (milepost 96.2) and to serve all industry formerly served by the RI at Cedar Rapids.

O. at Sibley, Iowa.

P. at Worthington, Minnesota.

Q. from Carlisle to Indianola, Iowa.

R. at Omaha, Nebraska, (between milepost 502 to milepost 504).

S. Peoria Terminal Company trackage from Iowa Junction (RI milepost 164.32/PTC milepost .91) through Hollis, Illinois to the Illinois River bridge (milepost 7.40).

6. Chicago, Milwaukee, St. Paul and Pacific Railroad Company (MILW):

A. from West Davenport, through and including Muscatine, to Fruitland, Iowa, including the Iowa-Illinois Gas and Electric Company near Fruitland.

B. at Washington, Iowa.

C. from Newport, Minnesota to a point near the east bank of the Mississippi River, sufficient to serve Northwest Oil Refinery, at St. Paul Park, Minnesota.

D. from Davenport (milepost 182.35) to Iowa City, Iowa (milepost 237.01).

E. at Davenport, Iowa.

7. St. Louis Southwestern Railway Company (SSW):

A. from Brinkley to Briark, Arkansas, and at Stuttgart, Arkansas.

B. at North Topeka and Topeka, Kansas.

8. Little Rock & Western Railway Company (LRWN):

A. from Little Rock, Arkansas (milepost 135.2) to Perry, Arkansas (milepost 184.2).

B. from Little Rock (milepost 136.4) to the Missouri Pacific/RI Interchange (milepost 130.6).

9. Missouri Pacific Railroad Company (MP):

A. from Little Rock, Arkansas (milepost 135.2) to Hazen, Arkansas (milepost 91.5).

B. from Little Rock, Arkansas (milepost 135.2) to Pulaski, Arkansas (milepost 141.0).

C. from Hot Springs Junction (milepost 0.0) to and including Rock Island (milepost 4.7).

D. from Wichita, Kansas (milepost 243.7) to Kechi, Kansas (milepost 235.9).

10. Norfolk and Western Railway Company (NW):

is authorized to operate over tracks of the Chicago, Rock Island and Pacific Railroad Company running southerly from Pullman Junction, Chicago, Illinois, along the western shore of Lake Calumet approximately four plus miles to the point, approximately 2,500 feet beyond the railroad bridge over the Calumet Expressway, at which point the RI track connects to Chicago Regional Port District track, for the purpose of serving industries located adjacent to such tracks. Any trackage rights arrangements which existed between the Chicago, Rock Island and Pacific Railroad Company and other carriers, and which extend to the Chicago Regional Port District Lake Calumet Harbor, West Side, will be continued so that shippers at the port can have NW rates and routes regardless of which carrier performs switching services.

11. Cadillac and Lake City Railway Company (CLK):

A. from Sandown Junction (milepost 0.1) to and including junction with DRGW Belt Line

(milepost 2.7) all in the vicinity of Denver, Colorado, a distance of approximately 6.6 miles.

B. from Colorado Springs (milepost 609.1) to and including all rail facilities at Colorado Springs and Roswell, Colorado (milepost 602.8), all in the vicinity of Colorado Springs, Colorado, and Eastward from Colorado Springs to Falcon, Colorado (milepost 590.3), a total distance of approximately 25.1 miles.

C. from Simla, Colorado (milepost 558.3) to Colby, Kansas (milepost 387.0), a distance of approximately 171.3 miles.

D. Rock Island trackage rights over Union Pacific Railroad Company between Limon and Denver, Colorado, a distance of approximately 83.8 miles.

12. Baltimore and Ohio Railroad Company (BO):

A. from Blue Island, Illinois (milepost 15.7) to Bureau, Illinois (milepost 114.2), a distance of 98.5 miles.

B. from Bureau, Illinois (milepost 114.12) to Henry, Illinois (milepost 126.94) a distance of approximately 12.8 miles.

13. Keota Washington Transportation Company (KWTR):

A. from Keota to Washington, Iowa; to effect interchange with the Chicago, Milwaukee, St. Paul and Pacific Railroad Company at Washington, Iowa, and to serve any industries on the former RI which are not being served presently.

B. at Vinton Junction, Iowa (milepost 120.0 to 123.0).

C. from Vinton, Iowa (milepost 23.4) to Iowa Falls, Iowa (milepost 97.4).

14. The La Salle and Bureau County Railroad Company (LSBC):

A. from Chicago (milepost 0.60) to Blue Island, Illinois (milepost 16.61), and yard tracks 6, 9 and 10; and crossover 115 to effect interchange at Blue Island, Illinois.

B. from Western Avenue (Subdivision 1A, milepost 18.6) to 119th Street (Subdivision 1A, milepost 14.8), at Blue Island, Illinois.

C. from Gresham (subdivision 1, milepost 10.0) to South Chicago (subdivision 1B, milepost 14.5) at Chicago, Illinois.

D. from Pullman Junction, Chicago, Illinois, (milepost 13.2) running southerly to the entrance of the Chicago International Port, a distance of approximately five miles, for the purpose of bridge rights only.

15. The Atchison, Topeka and Santa Fe Railway Company (ATSF):

A. at Alva, Oklahoma.

B. at St. Joseph, Missouri.

16. The Brandon Corporation (BRAN):

A. from Belleville, Kansas (milepost 226.1), to Manhattan, Kansas (milepost 143.0), a distance of approximately 83 miles.

17. Iowa Northern Railroad Company (IANR):

A. from Cedar Rapids, Iowa (milepost 100.5), to Manly, Iowa, (milepost 225.1).

B. at Vinton, Iowa, and west on the Iowa Falls Line to milepost 24.3.

18. Iowa Railroad Company (IRRC):

* * * A. from Council Bluffs (milepost 490.15) to West Des Moines, Iowa (milepost 364.34) a distance of approximately 126.81 miles.

B. from Audubon Junction (milepost 440.7) to Audubon, Iowa (milepost 465.1) a distance of approximately 24.4 miles.

C. from Hancock, Iowa (milepost 6.4) to Oakland, Iowa (milepost 12.3) a distance of approximately 5.9 miles.

* * * D. Overhead rights from West Des Moines, Iowa (milepost 364.34) to East Des Moines, Iowa (milepost 350.8). (This trackage is currently leased to the CNW, see Item 5.E.)

+ E. from East Des Moines, Iowa (milepost 350.8) to Iowa City, Iowa (milepost 237.01) a distance of 113.79 miles.

+ F. Overhead rights from Iowa City, Iowa (milepost 237.01) to Davenport, Iowa (milepost 182.35), including interchange with the Cedar Rapids and Iowa City Railway. (This trackage is currently leased to the MILW, see Item 6.D.)

* G. from Bureau, Illinois (milepost 114.2) to Davenport, Iowa (milepost 182.35).

H. from Rock Island, Illinois through Milan, Illinois, to a point west of Milan sufficient to serve the Rock Island Industrial Complex.

I. at Rock Island, Illinois including 26th Street Yard.

** J. from Altoona to Pella, Iowa.

19. *Missouri-Kansas-Texas Railroad Company (MKT):*

A. from Oklahoma City, Oklahoma (milepost 496.4) to McAlester, Oklahoma (milepost 365.0), a distance of approximately 131.4 miles.

20. *Chicago Short Line Railway Company (CSL):*

A. from Pullman Junction easterly for approximately 1000 feet to serve Clear-View Plastics, Inc., all in the vicinity of the Calumet switching district.

B. from Rock Island Junction westerly for approximately 3000 feet to Irondale Wye.

21. *Kyle Railroad Company (Kyle):*

A. from Belleville (milepost 187.0) to Caruso, Kansas (milepost 430.0), a distance of approximately 243 miles. KYLE will be responsible for the maintenance of the jointly used track between Colby and Caruso as mutually agreed upon with CLK, and for coordinating operations.

22. *North Central Texas Railway, Inc. (NCTR):*

A. from Chico, Texas (milepost 562) to Dallas (North Junction), Texas (milepost 643.8).

B. Joint right-of-way district between Dallas (North Junction) and Endot, Texas (milepost 646.4).

23. *Enid Central Railway, Inc. (ENIC):*

A. from Enid, Oklahoma (milepost 345.27) to Kremlin, Oklahoma (milepost 330.03), including operations on the Ponca City Branch line from milepost 0.02 to milepost 0.30.

B. from North Enid, Oklahoma (milepost 0.30) to Ponca City, Oklahoma (milepost 54.8).

24. *North Central Oklahoma Railway, Inc. (NCOR):*

A. from Mangum, Oklahoma (milepost 97.2) to Chickasha, Oklahoma (milepost 0.0).

B. from Richards Spur, Oklahoma (milepost 486.45) to Anadarko, Oklahoma (milepost 463.39).

C. from Chickasha, Oklahoma (milepost 434.69) to El Reno, Oklahoma (milepost 400.31).

D. from El Reno, Oklahoma (milepost 513.31) to Council, Oklahoma (milepost 494.5).

25. *South Central Arkansas Railway, Inc. (SCAR):*

A. from El Dorado, Arkansas (milepost 99) to Ruston, Louisiana (milepost 154.77).

26. *Burlington Northern Railroad Company (BN):*

A. at Burlington, Iowa (milepost 0 to milepost 2.06).

B. at Okeene, Oklahoma.

C. at Lawton, Oklahoma.

27. *Fort Worth and Denver Railway Company (FWD):*

A. from Amarillo to Bushland, Texas, including terminal trackage at Amarillo, and approximately three (3) miles northerly along the old Liberal Line.

B. at North Fort Worth, Texas (mileposts 603.0 to 611.4).

+ 28. *Okarche Central Railway, Inc. (OCRI):*

A. from Enid, Oklahoma (milepost 345.27) to El Reno Junction, Oklahoma (milepost 405.21).

B. from El Reno, Oklahoma (milepost 514.32) to Council, Oklahoma (milepost 496.40).

C. at El Reno, Oklahoma (milepost 402.73) to (milepost 404.19).

Note.—Certain segments of the above operation are overlapping with the NCOR (see Item 24). In the interest of operational clarity and efficiency, OCRI will be the supervising carrier for operations and maintenance.

+ Added.

* Changed.

** Corrected.

[FR Doc. 82-15809 Filed 6-10-82; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 285

Atlantic Tuna Fisheries

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NOAA publishes final regulations to implement the recommendations of the International Commission for the Conservation of Atlantic Tunas to limit fishing for Atlantic bluefin tuna for two years in the western Atlantic Ocean to a small catch needed to monitor the status of the stock. These regulations establish annual quotas for U.S. fishermen and provide a reasonable mechanism for managing the fishery. This action is necessary to minimize further depletion of the already depleted western Atlantic Ocean stock of Atlantic bluefin tuna.

EFFECTIVE DATE: These regulations are effective on June 10, 1982. Comments on the Final Environmental Impact Statement (EIS) must be received on or before July 6, 1982.

ADDRESSES: Send comments on the EIS to: National Marine Fisheries Service, Northeast Region, Management Division, State Fish Pier, Gloucester, Massachusetts 01930-3097. Clearly mark "Comments on bluefin tuna EIS" on the outside of the envelope. Copies of the combined final EIS, Regulatory Impact Review, and Regulatory Flexibility Analysis are available from: National Marine Fisheries Service, Northeast Region, Analytical Services Branch, P.O. Box 1109, Gloucester, Massachusetts 01930-5309.

FOR FURTHER INFORMATION CONTACT:

William C. Jerome, Jr., 617-281-3600, extension 325 or David S. Crestin, 617-281-3600, extension 253.

SUPPLEMENTARY INFORMATION: OMB

Control Numbers: 0648-0013, 0648-097, 0648-0031.

Background

The United States is a signatory nation to the International Convention for the Conservation of Atlantic Tunas (the Convention, 20 UST 2887, TIAS 6767). The Convention's provisions entered into force for the United States on March 21, 1969. The United States' obligations under the Convention are implemented by the Atlantic Tunas Convention Act of 1975, 16 U.S.C. 971-971h (the Act). Both the Convention and the Act are directed towards "maintaining the populations of Atlantic bluefin tuna at levels which will permit the maximum sustainable catch for food and other purposes" (Preamble to the Convention). The Act directs the Secretary of Commerce to promulgate regulations necessary to implement recommendations adopted by the International Commission for the Conservation of Atlantic Tunas (ICCAT) and to carry out the purposes and objectives of the Convention.

At its Seventh Regular Meeting in Tenerife, Canary Islands, November 11-17, 1981, the ICCAT adopted a Standing Committee on Research and Statistics (SCRS) recommendation that harvest levels of Atlantic bluefin tuna in the western Atlantic Ocean be as near zero as feasible for two years, since information indicates this stock is depleted. The ICCAT recommended that the nations actively fishing for Atlantic bluefin tuna in the western Atlantic Ocean (United States, Canada, Japan, and to a lesser extent Brazil and Cuba) consult and conclude consultations before February 15, 1982, to develop conditions under which fishing by their nationals would be carried out.

The required consultations were held on February 8-12, 1982 in Miami,

Florida, among officials representing the Governments of Brazil, Canada, Japan, and the United States. The annual catch needed to allow ongoing scientific studies to continue and to monitor the abundance of the stock was considered. Preliminary estimates of economic impacts of the ICCAT recommendations on the different Atlantic bluefin tuna fisheries also were reviewed. Officials agreed to recommend to their governments the following measures for 1982 and 1983 to implement the ICCAT recommendations on Atlantic bluefin tuna management in the western Atlantic Ocean:

- (1) The annual catch be limited to 1,160 mt (1,279 st);
- (2) The annual catch be allocated as follows:

Canada 250 mt (276 st)
 Japan 305 mt (336 st)
 United States 605 mt (667 st)

(3) The catch from the developing tuna fisheries of Brazil and Cuba, which currently take less than 50 mt (55 st) of Atlantic bluefin tuna annually, not be included in the total quota of 1,160 mt.

(4) There be no directed fishery on the spawning stock of Atlantic bluefin tuna in the Gulf of Mexico.

Officials also agreed to recommend to their governments that they immediately initiate steps necessary to implement the management measures agreed upon in these consultations. These regulations fulfill the United States' international treaty obligations by implementing the ICCAT recommendations from the November 1981 Tenerife meeting and the recommended management measures from the February 1982 consultative process which were reported to and adopted by the Commission.

Rulemaking Process

Following the consultative process which concluded on February 12, 1982, NOAA began work necessary to implement the recommended management measures in 1982. A notice of intent to prepare an environmental impact statement and related documents was published on March 23, 1982 (47 FR 12367). NOAA published proposed regulations on April 21, 1982 (47 FR 17086); public comment was invited for a 30 day period which ended May 21, 1982. To ensure the maximum opportunity for public participation in the rulemaking process, NOAA held ten evening public hearings during the period from April 19, 1982 through May 3, 1982 in the following states: Texas, Louisiana, Florida, Virginia, New Jersey, New York, Massachusetts, and Maine. NOAA informed the public of these

hearings in the following manner: (a) Notice mailed on April 1, 1982 to all Atlantic bluefin tuna permit holders (over 10,000); (b) general news release mailed on April 1, 1982 to media and industry representatives; (c) notice of public hearings published on April 5, 1982 in the *Federal Register* (47 FR 15401); and (d) notice of the public hearings contained in the preamble to the proposed regulations.

Discussion of Public Comments

Attendance at each of the four public hearings held in the Gulf states was low (2 through 11 people signed the attendance record). For each of the six public hearings held in the Atlantic seaboard states (Virginia through Maine), attendance was significantly higher with between 40 and 138 people signing the attendance record. In addition to the individual comments received at the public hearings, 65 written comments were received during the 30 day public comment period. Discussion of the comments received and NOAA's response to these comments are grouped together by major issue.

1. General

At the hearings and in written comments, a number of commentators, including representatives of coastal state marine fishery agencies, state legislatures, and tuna recreational and commercial industry associations, recommended that Atlantic bluefin tuna be managed by the United States through its exclusive fishery management authority under the Magnuson Fishery Conservation and Management Act, ("Magnuson Act") and suggested that the rulemaking consider this alternative. Such action would require legislative change to the Magnuson Act's definition of highly migratory species and, further, is not within the authority conferred by the Atlantic Tunas Convention Act, which is the legal authority for this rulemaking. Revising the legal authority of the United States over Atlantic bluefin tuna is beyond the scope of this rulemaking.

One commentator suggested that NOAA could bring Atlantic bluefin tuna under the Magnuson Act by revising regulations promulgated at 50 CFR 601.2 to remove Atlantic bluefin tuna from the list of highly migratory species not subject to management under the Magnuson Act. Revising the list would not be consistent with the Magnuson Act, and could not accomplish timely implementation of the ICCAT recommendation.

Several commentators questioned the domestic restrictions of the proposed

regulations, when foreign fishing effort for Atlantic bluefin tuna in the western Atlantic Ocean is not regulated by the United States. The international aspects of managing this fishery are addressed through ICCAT. Under ICCAT, each member nation has the responsibility to implement ICCAT recommendations for its own nationals. NOAA's legal authority under the Atlantic Tunas Convention Act is limited to implementing recommendations of ICCAT through regulations pertaining solely to the domestic fishery. In fact, the ICCAT recommendation severely limits Atlantic bluefin tuna fishing by foreign vessels in waters adjacent to the United States. Simultaneous action by the United States to manage the U.S. fishery is required to assure that foreign nations will continue to observe their ICCAT obligations.

Several commentators expressed favor with or supported the proposed regulations. A few of these suggested that the ICCAT recommendation and these regulations, which limit domestic harvest for two years, should be in place for up to ten years. Several commentators recommended a total moratorium on Atlantic bluefin tuna fishing in the western Atlantic Ocean to conserve the depleted spawning stock. On the other hand, NOAA received numerous comments from individuals participating in all segments of the fishery, a State marine fishery agency, and a public petition recommending that this rulemaking not go forward and that the present regulations (45 FR 40118, 45 FR 48636, 46 FR 8012) remain in effect. This course of action would ignore the ICCAT recommendations of November 1981, and would be contrary to the international treaty obligations of the United States.

Several commentators suggested an embargo on the export of Atlantic bluefin tuna and others suggested a complete prohibition on the sale or export of Atlantic bluefin tuna. Prohibitions on the sale or export of Atlantic bluefin tuna would have significant negative financial effects on all segments of the industry. Such measures would go beyond those reasonably necessary to implement the ICCAT recommendation.

One commentator recommended that all quotas address only scientific needs for stock monitoring and assessment purposes. NOAA acknowledges that information obtained from certain segments of the domestic fishery is more useful than others for stock assessment purposes. The quotas proposed for the various segments of the fishery were developed based on the following six

criteria: (1) the total catch should be the minimum sufficient for scientific purposes; (2) catch should broadly cover as many age groups as possible; (3) fishing effort generates the catch should be related to the fishing mortality rate; (4) catch must be available for scientific sampling; (5) minimal incidental catch should be allowed, and (6) the regulatory burden on U.S. fisherman should be minimized to the extent consistent with the ICCAT recommendations. Information obtained from all segments of the fishery will be used for stock monitoring and assessment purposes.

Several commentators questioned the validity of the two stock theory for Atlantic bluefin tuna (separate eastern and western Atlantic Ocean stocks). Over the years, there has been much discussion in the international scientific community about the stock structure of Atlantic bluefin tuna. As indicated in the preamble to the proposed regulations, however, the scientific information presently available supports the hypothesis of separate eastern and western Atlantic Ocean stocks. The SCRS recommendation that catches of Atlantic bluefin tuna in the western Atlantic Ocean be as near zero as possible was based on a two stock assumption. However, the SCRS did both one and two stock analyses and did not state definitely that there are one or two stocks. Tag returns indicate at least a limited exchange between western and eastern populations. NOAA stock assessment scientists are using a variety of biological and statistical techniques to research the question of one or two stocks of Atlantic bluefin tuna. These studies, when completed, should assist in determining whether the stocks are distinct. SCRS likely will continue to pursue this issue in the future.

Stock analyses done by SCRS under the assumptions of either the single or two stock theory indicate Atlantic bluefin tuna in the western Atlantic Ocean are severely depleted and continue to decline. Some commentators questioned the validity of the stock assessments. NOAA is not aware of other scientific information on which to base management of Atlantic bluefin tuna. NOAA believes the most reasonable approach is to assume that there are two separate stocks of Atlantic bluefin tuna. A management scheme predicated upon this hypothesis affords more protection to resource.

One Federal agency and one state marine fishery agency, along with several commentators at the hearings, indicated the 30-days comment period

was too short a period of time to review and comment adequately on the proposed rulemaking, and requested that NOAA extend the public comment period. NOAA is attempting to implement the ICCAT recommendations in the shortest time period consistent with applicable law. This is necessary so the regulations can be in place before the 1982 fishery begins in earnest in June, to preclude a possible harvest of Atlantic bluefin tuna in excess of the total U.S. quota of 667 st. NOAA believes the 30-day comment period was adequate based on the significant amount of public comment at the public hearings. It is the agency's experience that a 30-day comment period is sufficient for reviewers to comment upon relatively simple regulatory schemes. For this reason, NOAA did not extend the comment period.

2. Miscellaneous Comments

One commentator recommended that the proposed regulations in § 285.2 define "recreational fisherman". The term recreational fishery was used in the preamble to the proposed regulations as a descriptor for the rod and reel fishery which catches young school, school, and medium-sized Atlantic bluefin tuna. A majority of the tuna taken in this fishery are not sold. The regulations themselves, however, make no distinction between "commercial" and "recreational" fisherman. Therefore, defining the term is unnecessary.

Individuals actively participating in the fishery took exception with NOAA's statement in the preamble to the proposed regulations that there are over 10,000 permit holders engaged in fishing for giant Atlantic bluefin tuna. These fishermen stated something less than 25 percent of the permit holders actively fish. One of these commentators recommended NOAA institute a permit fee system to identify more realistically the number of actual fishery participants. NOAA has examined the issue of permit fees in the past. The considerable administrative problems with such a system outweigh any potential benefits that might result. There also is the issue of inequitable treatment of certain U.S. fishermen. If NOAA were to adopt this recommendation, a permit to engage in the Atlantic bluefin tuna fishery would be the only domestic fishing permit issued by NOAA subject to a fee. No change, therefore, has been made.

On the issue of enforcement, several commentators recommended vigorous enforcement with strong penalties for persons violating these regulations. Section 285.4, "Civil Penalties," provides

for civil penalties ranging from \$1,000 to \$100,000 depending on the nature of the violation. These penalties are consistent with the nature of the offense and are the maximum penalties allowed under the Atlantic Tunas Convention Act. A comment received recommended that § 285.6, "Civil Procedures," be modified to provide monetary compensation to individuals giving NOAA information which leads to a notice of violation. The commentator suggested this would be an incentive for "self policing" of the fishery. NOAA believes this type of informant system would be difficult to administer effectively and may not be in the best interests of natural resource law enforcement efforts. No changes, therefore, have been made to § 285.4 of the regulations.

Several commentators recommended that fishermen instead of dealers have the responsibility for reporting catch and effort information and for affixing the required metal tags to giant Atlantic bluefin tuna. The regulations which governed the fishery before 1980 required fishermen to report their catch information and affix the metal tags. This system was changed in 1980 to the dealer reporting system currently in place, which NOAA proposed to continue. NOAA believes the conservation objectives of the Convention and the Act will continue to be met by this approach, yet at a continued reduction in overall management and enforcement costs and in the paperwork burden imposed on the public. Because the counter-signing design of the system enables cross checks to be made, random audits of dealers' records can be made if necessary. The fewer number of individuals responsible for maintaining the catch reports (100 dealers as opposed to over 10,000 fishermen) eases the enforcement burden. The present system of dealer reporting has worked well and provides excellent catch information.

For the past several years, NOAA has used a sampling program to monitor the fishery for young school, school, and medium-sized Atlantic bluefin tuna along the mid-Atlantic and southern New England coasts. This program provides reasonable catch and effort information and will be expanded to obtain catch and effort information from the fishery for giant Atlantic bluefin tuna.

One commentator recommended the regulations state more clearly that tag and release fishing under § 285.33 may be conducted throughout the year. The commentator felt there was some ambiguity about whether tag and

release fishing could be conducted during the time fishing was allowed under § 285.29. NOAA agrees the regulations were not clear on this point and has modified § 285.29(b) (2) to incorporate this recommendation.

One commentator recommended that individuals issued tag and release permits under § 285.33 be required to maintain catch and effort logs for their fishing trips. While not stated in the proposed regulations, all cooperating fishermen participating in the tag and release program currently submit pertinent catch information on each fish tagged and released. This information is essential for the conduct of the program; otherwise tag returns would have little meaning. Section 285.33(b) has been clarified on this point. Requiring cooperating fishermen to maintain logs showing effort information would pose a significant additional reporting burden on the public and would be inconsistent with the objectives of the Paperwork Reduction Act. NOAA further believes effort data from the tag and release fishery is not essential for monitoring the status of the stock. Adequate effort information for use in stock assessment activities will be collected through an expanded sampling program.

One commentator suggested that NOAA indicate that the regulations apply to U.S. vessels and fishermen regardless of where the fishery occurs. This is addressed in § 285.1 of these regulations and in the definition of "regulatory area" in § 285.2.

One commentator noted the need for a definition of the term "regulatory area," which appears in §§ 285.29 and 285.30. NOAA agrees that a definition of this term is useful to clarify that the regulatory area in which these regulations apply includes waters within the boundaries of certain states and the territorial sea of the United States adjacent to such states. These regulations reinstate a definition of the term "regulatory area" as it appeared in earlier regulations, with a cross-reference to the "scope" section (§ 285.1(d)) indicating where these regulations apply.

One state marine fisheries agency questioned whether the regulations adopted today could apply within state boundaries until such states have had a "reasonable period of time" to adopt complementary or stricter regulations applicable within their waters and the adjacent territorial sea. This agency also opined that federal regulations could not apply within the "internal waters" of a state even after such a determination under section 9(d) of the Act. NOAA disagrees on both counts for the reasons discussed below.

Determinations made in the past by the Assistant Administrator with respect to earlier bluefin tuna regulations were prospective in nature and continue in effect for the regulations adopted today. The essential question in determinations under section 9(d) is whether a state has enacted rules that are as strict as, or stricter than, the federal regulations implementing the ICCAT recommendation. Since the regulations adopted today are stricter than those implementing previous ICCAT recommendations, these determinations remain valid in the absence of a request by any affected state that NOAA consider evidence that the state has adopted more restrictive regulations than those that were in place at the time of the original determination. Any state which adopts new regulations, or believes that its present regulations effectively implement the ICCAT recommendations, is invited to inform NOAA of this fact, and may, within a reasonable period of time after these regulations are made final, request a redetermination under section 971(d). Absent any such indication of a need, performing redeterminations in every case would cause an unacceptable hiatus in the implementation of ICCAT obligations during the course of such redeterminations. NOAA considers determinations made under section 9(d) of the Act to be prospective in nature and applicable to future more restrictive amendments of the federal regulations without further action. Therefore, previous determinations that Federal bluefin regulations apply to waters within the boundaries of certain states, and within the territorial sea adjacent thereto, continue in effect and apply to these regulations as adopted today.

These regulations apply within the boundaries of States subject to determinations noted in § 285.1(d) of these regulations, i.e. within state "internal waters" as well as within the adjacent territorial sea. Section 9(d)(2) of the Act authorizes application of federal regulations "within the boundaries of any state" and is not limited to the territorial sea of the United States adjacent to such states. As indicated in an interpretive statement (44 FR 3 393, June 22, 1979) published in response to questions raised by Massachusetts:

* * * the application of federal regulations in state waters under 50 CFR 285.9 (now 285.1(d)) is not intended to prevent application of state regulations which when concurrently applied do not conflict with federal regulations and are not inconsistent with conservation and management of Atlantic bluefin tuna under recommendations

made by the International Commission for the Conservation of Atlantic Tuna.

It is clear from this statement and the authority provided by the Act that the determinations noted in § 285.1(d) extend the "regulatory area" to include the internal waters of the states affected, as well as the territorial sea of the United States adjacent to such states. Federal regulations have in fact been applied to such waters without objection from the state.

One commentator recommended that the regulations should require U.S. observers on all foreign fishing vessels that catch Atlantic bluefin tuna in the western Atlantic Ocean. For the past several years, the NMFS Foreign Fishing Observer Program has placed observers on foreign longline vessels (principally Japanese tuna longliners) to monitor the incidental capture of Atlantic billfishes and sharks in the fishery conservation zone (FCZ). These individuals, as an adjunct operation, also observe any catches of Atlantic bluefin tuna.

One commentator recommended that the regulations establish Atlantic bluefin tuna incidental catch restrictions for foreign longline vessels consistent with the restrictions for U.S. longline vessels under § 285.31. As stated in § 285.1, these regulations implement the ICCAT recommendations "for persons and vessels subject to the jurisdiction of the United States." Each member nation of ICCAT implements the ICCAT recommendations for its own vessels and fishermen. The comment is beyond the scope of these regulations and U.S. authority.

The regulations eliminate the scientific quota of 225 st for the purposes of tagging and obtaining age, sex, and any other scientific information. This quota traditionally was allocated to purse seine vessels to assist NOAA in collecting these data. A few commentators recommended continuing a scientific quota for these purposes. With only 667 st available to the U.S. fishery, continuing this research quota would be at the expense of other segments of the fishery and would have negative economic effects. Further, the information obtained through this quota was considered supplementary to information obtained through the ongoing monitoring of the fishery for young school, school, and medium-sized Atlantic bluefin tuna. Stock assessment scientists determined that this latter fishery will be the primary monitoring mechanism for assessing the status of the stock.

3. Elimination of the Directed Purse Seine Fishery

For two reasons, regulations prohibit a directed purse seine fishery for Atlantic bluefin tuna. First, effort information on purse seine fishing is not suited for indexing the fishing mortality rate in small, localized fisheries. This U.S. purse seine fishery is no exception in that only a relatively few vessels are active in the fishery. If their catch were restricted to 100-200 st, the entire amount could be taken during a few sets and consist of only a few schools comprised of one or two age groups. Thus, the purse seine fishing effort as an index of the fishing mortality rate would not be sufficiently useful for developing stock assessments for bluefin tuna of these ages.

Second, the domestic purse seine vessels which have been involved in the Atlantic bluefin tuna fishery also direct effort at skipjack and yellowfin tunas and may catch substantial amounts of these species. Information obtained from the 1981 directed skipjack tuna fishery indicates that bluefin tuna are taken as an unavoidable incidental catch. Percentages of bluefin tuna in some of the skipjack tuna catches ranged from approximately 8 to 17 percent. Also, catches of bluefin tuna may occur from errors in identification of the species of tuna in a school before making a purse seine set.

To address the incidental catch in this fishery and reduce overall Atlantic bluefin tuna mortality, the regulations provide for an allowable incidental catch of bluefin tuna not to exceed 10 percent by weight of all other tuna species on board a vessel at the end of a trip. This incidental catch allowance is limited to only those purse seine vessels, or their replacements, which were granted allocations and landed Atlantic bluefin tuna in the directed fishery for Atlantic bluefin tuna during the period 1980 through 1981.

The regulations also limit the catch under these incidental catch allowances to a quota of 171 st of bluefin tuna by purse seine vessels regardless of the directed fishery. These measures are necessary to prevent catches from exceeding the total quota of 667 st available for all segments of the U.S. fishery.

Representatives of the purse seine industry objected to eliminating the directed purse seine fishery for Atlantic bluefin tuna. Numerous commentators favored the existing regulations and recommended no reductions in the quota available for purse seine vessels. The existing regulations provide for a total quota of 950 st of Atlantic bluefin tuna

for the directed purse seine fishery. This amount is 283 st greater than the total quota of 667 st available for all gear segments of the U.S. fishery under the November 1981 ICCAT recommendation and the February 1982 consultative process.

An industry representative favored a 10 percent incidental catch provision for all U.S. purse seine vessels as opposed to only those historical participants granted allocations of Atlantic bluefin tuna in 1980 and 1981. This commentator also objected to the requirement that purse seine vessels which incidentally take Atlantic bluefin tuna obtain permits.

The previous existing regulations provided preferential treatment in the allocation of the purse seine quota to those east coast purse seine vessels that historically participated in the east coast fishery. These vessels have operated successfully in the fishery and have developed a substantial financial dependency on the Atlantic bluefin and skipjack tuna fisheries. In recent years, tuna purse seine vessels from the west coast have shown no desire to participate in the east coast tuna fisheries. With declining stocks and an extremely limited quota, NOAA believes it is appropriate to limit participation in the incidental purse seine fishery to the historical participants meeting the criteria specified in § 285.21(b). This represents the most equitable distribution of the quota and provides some measure of recognition of the east coast purse seine vessels reliance on Atlantic bluefin tuna.

NOAA believes that allowing an unlimited number of purse seine vessels to catch Atlantic bluefin tuna incidentally to fishing for other tuna species would be difficult to enforce and would require significant expenditures of funds well beyond that considered reasonable for this fishery. To have a large number of purse seine vessels catching Atlantic bluefin at the rate of 10 percent by weight of all other tuna species on board could undermine the integrity of the incidental catch quota. Therefore, no change has been made to the regulations as they were proposed.

Several comments received stated the belief that purse seine catches are useful for stock monitoring and assessment purposes. This position is contrary to that taken by NMFS scientists actively engaged in Atlantic bluefin tuna stock assessment efforts. Many commentators recommended that the proposed quota of 667 st be apportioned to the various gear segments of the fishery on the same percentage basis as in the existing regulations, an alternative which NOAA considered and rejected in developing

the proposed regulations. Since the quota for purse seine vessels in the previously existing regulations is approximately 50 percent of the total quota, this would result in a quota of approximately 330 st. This is similar to comments received which stated the need for a minimum of 300-350 st of giant Atlantic bluefin tuna to sustain the purse seine fishery. The approach, while straightforward, would not be consistent with the ICCAT recommendation that quotas be used to the maximum extent practicable to allow collecting the necessary scientific information to assess the status of the Atlantic bluefin tuna stock. No change, therefore, has been made to the proposed regulations as a result of these comments.

NOAA also has received several comments opposing the purse seine fishery for Atlantic bluefin tuna. They recommended a zero quota for these vessels. As stated above, there is a legitimate unavoidable incidental catch of Atlantic bluefin tuna in the skipjack tuna fishery. Since the ICCAT recommendation states that all directed and incidental catches of Atlantic bluefin tuna be counted against the total quota, an incidental catch provision must be provided for the purse seine fishery.

One commentator recommended closing the purse seine fishery for tunas once the incidental catch quota of Atlantic bluefin tuna was reached. The proposed regulations in § 285.29(b) provide for closure of any segment of the U.S. Atlantic bluefin tuna fishery once the respective quotas are taken. NOAA believes that no additional provisions are necessary and, therefore, no change has been made to the proposed regulations.

Several comments, including those from a representative of a State marine fishery agency and a tuna industry association, recommended that the incidental catch restrictions on Atlantic bluefin tuna for purse seine vessels be limited to three percent of all other fish onboard the vessel at the end of a fishing trip, instead of the 10 percent allowance put forth in the proposed regulations under § 285.31(a). One comment was received in support of the 10 percent incidental catch allowance. As indicated above, catches of Atlantic bluefin tuna in the skipjack tuna fishery can be significantly greater than three percent. NOAA believes that an incidental catch restriction for Atlantic bluefin tuna of less than 10 percent of all other fish onboard by weight would unduly hamper legitimate fishing operations for other species of tuna.

Therefore no change has been made to the regulations as they were proposed.

One comment recommended that the regulations allow the transfer of any unused portion of the incidental catch quota for purse seine vessels to the handgear fishery (General category). Several comments recommended that the incidental catch quota for purse seine vessels be reduced from 171 st to 87 st and the difference be transferred to the quota for anglers taking young school, school, and medium-sized Atlantic bluefin tuna. Based on past years' information, the entire incidental catch quota of 165 st may be necessary to address the unavoidable incidental catch of Atlantic bluefin tuna in other tuna fisheries. Further, NOAA believes neither of these proposals would provide any incentive for purse seine vessels to attempt to limit, when possible, their incidental catch of school-sized Atlantic bluefin tuna. Additional discussion on this general theme is given below.

One commentator proposed that the quota for purse seine vessels be in numbers of fish rather than tonnage. The commentator stated that the proposed quota of 171 st could amount to the harvesting of approximately 34,000 one-year old fish. Instead, the commentator recommended the quota allow the harvest of 10,000 school-sized fish and 1,286 giant Atlantic bluefin tuna. This would reduce fishing mortality by approximately 66 percent and, concomitantly, result in a positive financial benefit to purse seine vessels because giants are worth considerably more per ton than school-sized fish.

NOAA agrees that such a system could result in a reduction in fishing mortality. However, monitoring would be more difficult and time consuming as NOAA would have to count individual school-sized fish in the purse seine catches. Fishermen also might have to submit more detailed reports, thus increasing the paperwork burden. Moreover, a quota of 1,286 giants would allow purse seine vessels to approximately double their harvest of giants based on 1980 and 1981 catch information. Based on the average age and weight of the fish (approximately 400 pounds) harvested by purse seine vessels, these fish are part of the population known to spawn in the Gulf of Mexico. NOAA believes that with the stock's present low level of abundance, a significant increase in the harvest of adult fish of this size is not in the best interests of resource conservation. Finally, the provisions of the ICCAT management system are based on tonnage. The countries represented at

the February 1982 consultations in Miami (Brazil, Canada, Japan, and the United States) agreed to tonnage quotas for each nation for 1982 and 1983. If NOAA were to adopt a quota system based on numbers of fish, similar to that proposed by the commentator, the U.S. quota of 667 st could be exceeded significantly. This would be contrary to the agreed provisions of the February 1982 consultations.

Representatives from two state marine fishery agencies recommended incidental catch quotas for purse seine vessels of 70 st for school-sized fish and 100 st for giant fish. The rationale for these recommendations was similar to that of the comment discussed above, in that harvest of giants could reduce fishing mortality. This comment fails to take into consideration the unpredictable nature of the incidental catch of Atlantic bluefin tuna (primarily school-sized fish) in the skipjack tuna fishery. NOAA believes that formal subdivision of the incidental catch quota may not address legitimate needs of the fishery. As an alternative to this recommendation, one comment recommended that whatever quantity of the 10 percent incidental catch quota for tuna purse seine vessels is not caught as school-sized Atlantic bluefin tuna be later converted into a quantity of giants. NOAA has examined these recommendations and believes any system that provides an incentive for limiting the incidental catch of school sized Atlantic bluefin tuna could result in a positive conservation measure for the resource. Therefore § 285.31(a) of these regulations has been modified to allow purse seine vessels to harvest giants, in whatever quantity of Atlantic bluefin tuna is not taken as an incidental catch in other tuna fisheries.

Several commentators recommended the incidental catch quota for purse seine vessels be divided into individual allocations for those vessels which had participated in the fishery in 1980 and 1981. This would provide each of the five vessels which participated with an equal amount of Atlantic bluefin tuna.

NOAA accepts the recommendation; the regulations in § 285.30 provide that the incidental catch quota of 165 st will be allocated by the Regional Director equally among the eligible purse seine vessels. NOAA believes individual vessel allocations will prevent a situation whereby, if each vessel were fishing simultaneously for an undefined portion of the total incidental catch quota, the quota could be substantially exceeded.

4. *Swordfish Longline Incidental Catch Quota and Catch Limits*

The proposed regulations establish a quota of 44 st for longline vessels which harvest Atlantic bluefin incidental to a directed swordfish fishery. A specific quota is necessary to comply with the ICCAT recommendation that all directed and incidental catches be counted against each nation's total quota. Comments were received both in favor and in opposition to this proposed quota. One commentator recommended there be a zero quota for swordfish longliners; another recommended that the incidental quota for swordfish longliners be significantly reduced based on historical catch information. Another commentator questioned the small amount of the quota since it represents only about 50 percent of the 1981 catch. As stated in the preamble to the proposed regulations, NOAA believes the 80 st harvested in the Gulf of Mexico in 1981 is more than the unavoidable incidental catch needs of the swordfish fishery. Considering the traditional incidental catch of between two to three short tons, the proposed quota of 44 st should address adequately the needs of the present swordfish longline fishery throughout the regulatory area and provide adequately for the unavoidable incidental catch of giant Atlantic bluefin tuna in this fishery with minimal change in the type of gear used and tending practices.

One of the reasons for the substantial increase in the incidental catch of Atlantic bluefin tuna is that swordfish longline vessels have switched to using gear with heavier leaders. Several commentators recommended that the regulations establish a maximum line strength restriction for longline gear. This would allow giant Atlantic bluefin tuna to break free. NOAA will communicate this recommendation to the five Regional Fishery Management Councils presently engaged in developing a fishery management plan for swordfish under authority of the Magnuson Act.

The regulations in § 285.31 continue the current incidental catch restrictions for swordfish longline vessels of two fish per vessel per trip south of 36°00' N. latitude and two percent by weight of all other fish on board the vessel at the end of each fishing trip north of 36°00' N. latitude. One commentator recommended a uniform incidental catch restriction for the western Atlantic Ocean of three percent by weight of all other fish on board, not to exceed 10 st annually. The differing incidental catch rates north and south of 36°00' N.

latitude take into account the differing nature of the swordfish longline fisheries in these two areas. No change has been made as a result of this comment.

Several commentators recommended that NOAA allow retention of dead Atlantic bluefin tuna caught on longline gear in excess of these incidental catch restrictions. One proposal was to allow fishermen to either donate or sell for a nominal fee these "excess" fish to non-profit institutions. NOAA shares the concern that, under these incidental catch regulations, some fish are caught and killed but cannot be utilized. The NOAA policy on incidental catches after a fishery is closed is now under review for all domestic and foreign fisheries. In the meantime, NOAA believes that swordfish longline fishermen should abide by the incidental catch regulations and attempt to reduce their incidental capture of Atlantic bluefin tuna.

5. Quota and Catch Limit for Anglers Fishing for Young School, School, and Medium Sized Tuna.

The regulations at § 285.30 establish a quota of 99 st for anglers fishing for young school, school, and medium-sized Atlantic bluefin tuna. In previous years, this fishery was not assigned a specific quota. A majority of comments received on this issue were against establishing any quota for this fishery. A quota is necessary, however, to implement the ICCAT recommendation that catches from all directed and incidental fisheries be counted against each nation's total quota.

On the amount of the quota, several commentators were in favor of the 99 st which NOAA proposed; conversely, several commentators objected to the 99 st and recommended that the quota should be less. Another commentator, however, felt that the ratio of the proposed quotas for this fishery (99 st) and for purse seine vessels in the incidental catch category (171 st) was unfair. This commentator stated that since there are upwards of 40,000 anglers versus only a limited number of purse seine vessels, the quota for anglers should be proportionally greater than the incidental catch quota for purse seine vessels.

The quota of 99 st reasonably reflects the harvesting capacity of this fishery as the five year average catch was 105 st. Further, it provides adequately for stock assessment needs. Any substantial increase in this quota likely would mean that fish would remain unharvested and the unharvested tonnage would not be available to other fisheries since the quotas are for specific fishery segments. No change in the quota has been made.

Several commentators objected to allowing the harvest of small Atlantic bluefin tuna; this was considered not to be in the best interests of conservation. One of the criteria NOAA used for developing a monitoring program to assess the status of the stock consistent with the ICCAT recommendation is that the catch broadly cover as many age (size) classes as possible. Harvesting small Atlantic bluefin tuna consistent with the established quotas is essential to collect needed scientific information. No changes to the proposed regulations were made as a result of this concern.

NOAA has proposed in § 285.32 to reduce the catch limit for anglers fishing for young school, school, and medium-sized Atlantic bluefin tuna from four to two fish per angler per day. The primary reason for this proposed reduction was to reduce the potential for exceeding for the specific quota proposed for anglers of 99 st. The overwhelming majority of comments received on this issue were against the proposal.

Representatives of the charter boat industry at one of the public hearings requested that the catch limit for anglers fishing for young school, school, and medium-sized Atlantic bluefin tuna be changed to a number of fish per vessel per day. The number of anglers fishing on individual charter boats varies considerably throughout the regulatory area. NOAA believes, therefore, that this proposal could result in significant inequities in catch limits for individual anglers.

Fishermen, representatives of fishing industry organizations, representatives of State governments, and Congressional representatives recommended the catch limit remain at four fish per angler per day. The principal reasons stated by commentators for keeping the catch limit at four fish per angler per day was to ensure that the information collected from this segment of the fishery is comparable to the historical data base. Stock assessment scientists use catch and effort information from this fishery as the primary means for monitoring abundance of these size classes of Atlantic bluefin tuna. A technical review of this proposal indicates that reducing the catch limit from four to two fish per angler per day may degrade the quality and consistency of the time series of data and could hamper future stock assessment efforts without providing any major benefits.

NOAA acknowledges that information collection for stock assessment needs is critical. The quota of 99 st for anglers fishing for young school, school, and medium-sized Atlantic bluefin tuna is based on a five

year average of catch from this fishery. Consequently, there is a reasonable expectation that this quota will not be exceeded.

For these reasons, NOAA agrees with the comments and has revised the regulations under § 285.32(c) to allow a catch limit of four fish per angler per day, provided, as under previous regulations, that only one of four fish may be a medium.

6. Buy Boats

A few commentators supported the proposed prohibition on the operation of buy boats in the Atlantic bluefin tuna fishery. The vast majority of commentators on this issue, however, favored the continued operation of buy boats. Some fishermen stated they find it convenient to sell or transfer their Atlantic bluefin tuna at sea and to continue fishing for other species. Other fishermen stated that buy boats provide useful services including assistance in safely transporting catches in adverse weather conditions, aid in the proper handling of the tuna to protect product quality, and transporting additional supplies of ice and bait to the fishermen.

The preamble to the proposed regulations implied that there were potential difficulties in enforcing provisions of the regulations pertaining to the operation of buy boats. One commentator questioned whether or not the NOAA's administrative record documented a history of enforcement problems. A review of this record for the period in which buy boats have been operating shows little evidence of improper activity.

For the reasons cited above, the regulations in § 285.22 and § 285.23 provide for the operation of buy boats and allow the Regional Director to place individuals onboard buy boats to observe the conduct of their operation; these provisions are identical to the previously effective regulations. Several commentators recommended that placement of NMFS observers be a prerequisite for buy boats to operate. NOAA believes that the option of placing observers onboard buy boats is adequate for monitoring purposes and that mandatory observer coverage is both unnecessary and costly. This recommendation, therefore, is rejected.

7. Change in Commencement Date of Handgear Fishery

The regulations change the commencement date for the handgear fishery from January 1 to July 15 of each year. Several commentators supported eliminating the directed fishery in the Gulf of Mexico. Conversely, several

commentators from the Gulf states objected to this proposal because it virtually eliminates a directed handgear fishery in the Gulf of Mexico. This consequence was acknowledged in the preamble to the proposed regulations. Any commencement date before June 1 would provide an opportunity for a sizable directed handgear fishery to develop in the Gulf of Mexico.

Several commentators, including a Regional Fishery Management Council, recommended that the rod and reel fishery in the Gulf of Mexico be treated as an incidental catch fishery. These commentators contend that Atlantic bluefin tuna are not fished for directly and are caught only on rare occasions. NOAA disagrees that the catch is solely incidental in nature. Information indicates a directed rod and reel fishery for giant Atlantic bluefin tuna has been conducted by U.S. fishermen for many years in the Gulf of Mexico and immediately adjacent waters (e.g., in the vicinity of the Bahamas).

NOAA continues to believe the change in commencement date is necessary to prevent a directed handgear fishery from occurring on Atlantic bluefin tuna spawning in the Gulf of Mexico. At current low stock levels, such a fishery could have deleterious effects on an already declining stock. This change complies with the recommendation in the February 1982 resolution developed in Miami to prohibit directed fishing on Atlantic bluefin tuna spawning in the Gulf of Mexico.

Several comments were received from New England handgear fishermen recommending a somewhat earlier commencement date. A review of historical catch information shows that relatively few giant Atlantic bluefin tuna are harvested in June and the first half of July. The regulations establish a commencement date of June 1. This change accommodates fishermen (principally harpooners) who wish to take advantage of favorable weather conditions in June. NOAA believes this change will not have significant adverse effect on the fishery.

8. Establishing a Single Catch Limit for Harvesting Giant Atlantic Bluefin Tuna Throughout the Regulatory Area

The proposed regulations in § 285.32(a) established, for vessels registered in the General category, quota of 353 st and a catch limit of one giant Atlantic bluefin tuna per vessel per week with a possession limit of only one giant at any time. Several commentators advised NOAA that this proposal would eliminate commercial fishing for giant Atlantic bluefin tuna. A number of

commentators supported a catch limit of one giant per vessel per day or the existing regulations which provide for a variable catch limit beginning at one giant per vessel per day. One commentator recommended that operators of vessels permitted in the General category be allowed to catch and retain giant Atlantic bluefin tuna at an unlimited catch rate until the quota was taken. Any of these approaches could result in an extremely short season. NOAA's proposal, which was based on available catch information for 1979-1981, provides for the longest season possible. This was done to address the various and diverse interests of participants involved in the Atlantic bluefin tuna industry desiring an extended fishing season.

Several comments recommended individual vessel allocations of a number of giant Atlantic bluefin tuna per year rather than catch limits of a number of giants per vessel per week. With approximately 10,000 permit holders, a vessel allocation system for a directed fishery is not feasible.

One commentator stated he believed the General category quota of Atlantic bluefin tuna would not be attained with a catch limit of one giant per vessel per week. Other commentators recommended that the catch be monitored and the catch limit increased if necessary to harvest the quota. Other commentators recommended the fishery begin on August 15 with a catch limit of one giant per vessel per day.

NOAA agrees that the proposed regulations were too rigid. The regulations in § 285.32(a) now establish a catch limit of one giant per vessel per week, increasing to one giant per vessel per day on August 15 unless, based on a review of the catch information, the Regional Director determines otherwise. This management scheme is similar in nature to several recommended in the comments received.

The proposed regulations eliminated the distinction of separate northern and southern management areas each with their separate quotas. The rationale for this change was that since the proposed regulations established a single catch limit for the entire regulatory area, separate management areas were unnecessary. Numerous comments were received against the proposal since they believe separate areas in conjunction with separate quotas are necessary to ensure a fishery in both areas. NOAA's position on this issue remains that separate management areas are unnecessary and would not assist in effective management of the fishery. No change has been made to the regulations.

Section 285.30(a)(1) of the proposed regulations provided that no more than 327 st of the General category quota of 353 st of giant Atlantic bluefin tuna could be harvested before September 1 east and north of a line drawn north and south through Gay Head, Martha's Vineyard. The purpose of this proposal was to take into consideration the normally late fishery in what previously had been known as the "southern area." Many comments indicated the need to reserve a quantity of giant Atlantic bluefin tuna for the late starting fishery off the southern New England/mid-Atlantic coast. Several comments indicated that this could be better accomplished by establishing the north-south line of demarcation through Montauk, Long Island, New York instead of Gay Head, Martha's Vineyard, Massachusetts. One commentator suggested that there should be not only a separate quota reserved for the late-starting fishery in the southern area, but also small, separate quotas for localized fisheries. Comments from numerous individuals, including a representative of a State marine fishery agency and a Congressman, requested that NOAA clarify when and where this 26 st of giants (353 st minus 327 st) could be harvested.

NOAA has reviewed this section of the regulations and now believes the objective of providing a small quantity of Atlantic bluefin tuna for the late fishery off the southern New England and mid-Atlantic coasts can be accomplished by holding 26 st of the General category quota in reserve until September 15, which would be available for harvest throughout the regulatory area. This eliminates the need to reference the line through Gay Head, Martha's Vineyard. Section 285.30 of the regulations reflects this change.

Many commentators from the mid-Atlantic area recommended that the harvest of the 26 st reserve be limited to rod and reel fishing only. One commentator recommended the 26 st be reserved solely for those rod and reel fishermen fishing under International Game Fish Association (IGFA) rules (maximum of 130-pound test line). Since the 26 st reserve is available for harvest throughout the regulatory area after September 15, NOAA believes the harvest of these fish should not be limited to a single gear type. Ample opportunity exists for rod and reel fishing for Atlantic bluefin tuna south of Cape Cod both in the giant fishery and in the young school, school, and medium-sized fishery.

9. Elimination of Separate Quotas for Harpoon Boats and Charter Boats

The proposed regulations included harpoon boats in the General category; the separate specific quota and unlimited daily catch limit of giant Atlantic bluefin tuna for this small segment of the fishery were eliminated. The NOAA proposal would have allowed harpoon boats an opportunity to catch collectively more giant Atlantic bluefin tuna than the 43 st which could be made available for a separate quota. Harpoon boat fishermen and others, however, expressed overwhelming support for continuing the separate quota and unrestricted catch limit, despite the reduced amount of tuna available for the United States.

These individuals repeatedly indicated that harpoon fishing requires weather conditions conducive to spotting giant bluefin tuna at or near the water's surface. They commented that a separate quota coupled with an unrestricted catch limit was essential to take advantage of those few days with relatively calm ocean surfaces to harvest giant Atlantic bluefin tuna. Without this flexibility, harpoon boat fishermen commented that they would not be able to continue a financially sound fishing operation.

Based on this strong industry support, the final regulations remove harpoon boats from the General category. A separate quota for harpoon boats of 43 st is established in § 285.30 along with an unrestricted catch limit established in § 285.32. The final regulations reduce the quota for the General category by 43 st (from 353 st to 310 st).

The proposed regulations eliminated the separate specific quota for charter boats; instead charter boats would fish under the General category quota. Several comments were against the proposal. These individuals felt the proposal would create adverse effects on charter boats and would lead to elimination of the charter boat industry for Atlantic bluefin tuna fishing. The 16 vessels permitted in this category reported catching only 11 giant Atlantic bluefin tuna in 1980 and eight in 1981. NOAA continues to feel a separate quota is not warranted. The final regulations are unchanged from the proposed regulations.

Changes Made in the Regulations

For the reasons discussed above, the final regulations differ from the proposed regulations as follows:

Section 285.1

Paragraph (d) is revised to clarify that determinations made in the past (41 FR

27968, 41 FR 32603, 44 FR 36393) as to the application of these regulations within state boundaries continue in effect for these regulations as amended. These regulations apply within the internal waters of the states listed as well as within the territorial sea of the United States adjacent to such States. The Assistant Administrator may extend the application of these regulations within the boundaries of additional states after proceedings under § 285.7.

Citations to those sections of the regulations which do not apply within the boundaries of the State of Maine were redesignated to reflect changes made elsewhere in the regulations.

Section 285.2

A definition of the term "regulatory area" was added because it is used in several sections of the regulations. The term "round weight" was expanded to "round or round weight"; the definition remains the same.

Section 285.21

Paragraph (b) of this section was changed to include the Harpoon Boat category and rewritten slightly for clarity. Paragraph (c) was changed by adding (c)(1) which requires each vessel owner applying for an Atlantic bluefin tuna permit to identify the category in which the vessel is to be permitted. The paragraph further was changed to include the requirement that except for purse seine vessels, owners may change the category in which the vessel is registered by notifying the Regional Director in writing before May 15 of each year.

Section 285.22

The terminology in this section was changed from "dealer license" to "dealer permit" to reflect current NOAA terminology. Paragraph (a) was modified to indicate that buy boats must have a valid permit. Paragraph (c)(1) was modified to allow the Regional Director discretion in issuing permits to individuals who previously violated provisions of the Act. A new paragraph (1) describing permitting and operating procedures for buy boats was added.

Section 285.23

Paragraph (b) was rewritten to indicate dealers using buy boats must report the precise time that the Atlantic bluefin tuna are received on the buy boat.

A new paragraph (e), derived from the existing regulations, was added informing buy boat operators of required procedures to follow before offloading tuna, including requesting vessel

inspection at least six hours before such offloading.

Section 285.24

Paragraph (d) was rewritten for clarity.

Section 285.25

Paragraph (d) was rewritten to note that fishing under the tag and release program is not a violation of the catch limits, and to prohibit the possession of Atlantic bluefin tuna in excess of specified catch limits.

Paragraph (i) was rewritten to allow dealers permitted to operate buy boats to purchase or receive Atlantic bluefin tuna at sea.

A new paragraph (o) was added prohibiting the purchase or transport with a buy boat any Atlantic bluefin tuna captured incidentally by longlines.

Paragraph (v) in the proposed regulations which prohibited the purchase or transport of Atlantic bluefin tuna with a buy boat was deleted.

Paragraphs (o) through (u) and (w) in the proposed regulations were redesignated accordingly.

Section 285.26

The heading for this section was changed from "Presumptions" to "Size Classes" to reflect more closely the content of this section.

An error in the table pertaining to the approximate weight of giant tuna was corrected to read "310 pounds or more." The heading for the table's middle column was changed from "approximate weight (whole fish)" to "approximate round weight."

Section 285.27

The references in this section to various paragraphs of section 285.25 were rearranged to reflect the current lettering system of the prohibitions.

Section 285.29

The heading for this section was changed from "Permitted fishing" to "Fishing seasons" to reflect more closely the content of this section. The rest of the section was reorganized for clarity.

Paragraph (a) was rewritten to change the commencement date for vessels permitted in the General or Harpoon Boat categories from July 15 to June 1 of each year; and for clarification purposes to indicate that the commencement date for anglers fishing for young school, school, and medium Atlantic bluefin tuna is January 1 of each year.

A new paragraph was included to identify the allowable fishing season for individuals participating in the tag and release program.

Section 285.30

In paragraph (a) the total amount of giant Atlantic bluefin tuna allocated to the General category was reduced from 353 st to 310 st. Of the 310 st, no more than 284 st may be taken before September 15.

Paragraph (a)(2) in the proposed regulations was redesignated as paragraph (c) in these regulations. A new paragraph (b) was added which establishes a quota of 43 st for the Harpoon Boat category.

Paragraphs (a)(3) and (a)(4) of the proposed regulation were combined in these regulations into paragraph (d) which establishes the total amount of Atlantic bluefin tuna available to vessels permitted in the Incidental Catch category. The quota of 215 st is further subdivided as follows:

- (1) 44 st for longline vessels,
- (2) 6 st for vessels fishing for species of fish other than tuna,
- (3) 165 st for purse seine vessels fishing for tunas other than Atlantic bluefin tuna, which shall be allocated equally by the Regional Director among the vessels eligible under § 285.21(b).

Section 285.31

Paragraph (a) was rewritten to indicate that any portion of an individual vessel allocation under § 285.30(d)(3) not caught at the termination of the vessel's fishing for species of tuna other than Atlantic bluefin tuna may be taken by that vessel as giant Atlantic bluefin tuna.

Section 285.32

Paragraph (a) was modified to establish a catch limit for giant Atlantic bluefin tuna of one fish per vessel per day beginning on August 15, unless the Regional Director determines that this catch limit will result in a closure of the fishery before September 15.

A new paragraph (b) was added which establishes an unrestricted catch rate limit of giant Atlantic bluefin tuna for vessels in the Harpoon Boat category.

Paragraph (b) of the proposed regulations was redesignated paragraph (c) in final regulations. Further, the catch limit for anglers was changed from two to four young school, school, and medium Atlantic bluefin tuna per day, only one of which can be a medium.

Section 285.33

Paragraph (b) of this section was modified slightly to indicate that fishermen cooperating in the tag and release program file catch reporting cards.

Classification

The NOAA Administrator has determined that these regulations are not major under Executive Order 12291. A Regulatory Impact Review has been prepared which describes the expected benefits and costs of the proposed regulatory action. The review provides the basis for the Administration's determination.

The NOAA Administrator has found good cause for this rulemaking to be exempt from section 3(c)(3) of E.O. 12291 under section 8(a) of that Order. Transmitting this regulation to the Director of the Office of Management and Budget (OMB) at least 10 days before publication would cause a delay in implementation necessary to ensure resource conservation and to meet an international commitment. A copy of this notice is being sent to OMB simultaneously with its publication in the *Federal Register*.

The NOAA Administrator has determined that these regulations will have a significant economic impact upon a substantial number of small entities under the Regulatory Flexibility Act. A Final Regulatory Flexibility Analysis has been prepared and is available to the public as a combined Environmental Impact Statement/Regulatory Impact Review/Regulatory Flexibility Analysis.

Information collection requirements contained in § 285.21, § 285.23, and § 285.33 have been approved by the OMB under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96-511) and have been assigned OMB control numbers 0648-0097, 0648-0013, and 0648-0031, respectively. OMB approval of the dealer and buy boat permits under § 285.22 is pending.

A Final Environmental Impact Statement (FEIS) has been prepared under Sections 102(2)(c) and 702(d) of the National Environmental Policy Act of 1969. A notice of intent to prepare an Environmental Impact Statement was published in the *Federal Register* on March 23, 1982 (47 FR 12367). The Environmental Protection Agency (EPA) published its notice of availability of the Draft EIS on April 16, 1982 (47 FR 16402). Comments on the DEIS/RIR/RFA were received until May 19, 1982. A final EIS/RIR/RFA has been prepared and filed with EPA. Notice of the filing of the FEIS at the Environmental Protection Agency was published on June 4, 1982. Under 40 CFR 1506.10(d), EPA has reduced the "cooling-off" period on this FEIS so these regulations can become effective upon publication and the United States may carry out its ICCAT commitments in time for the 1982 fishing season. Nevertheless, NOAA will receive

comments on the FEIS until July 6, 1982, for informal review and consideration in future rulemakings.

Appendix B of the 1980 Final Environmental Impact Statement discussed the participants who will be affected by this action. Since 1980, the number of applications (Federal Fisheries Permit, OMB control number 0648-0097) for permits in the giant bluefin tuna fishery (all categories) has increased by approximately 30 percent. The number of recreational anglers in the young school, school, and medium sized fishery has increased by an estimated three percent during the same time period.

NOAA has found good cause to waive the 30-day delayed effective date applicable under section 4(c) of the Administrative Procedures Act, 5 U.S.C. 553(d). Making these regulations effective at the beginning of June, before the U.S. directed fishery begins in earnest, is required to fulfill this country's commitment to the other ICCAT members to implement the ICCAT recommendation as soon as possible. Japan implemented the ICCAT recommendation for its nationals on March 3, 1982, and Canadian regulations will be in place before bluefin fishing commences in Canadian waters. Postponing U.S. implementation of the ICCAT recommendation and enforcement of these regulations for thirty days would greatly increase the potential that quotas for the various fishery sectors would be exceeded. This would seriously erode U.S. credibility at ICCAT and other international fishery management organizations, and could jeopardize the negotiation of additional needed organizations (e.g. for Pacific tuna). Therefore, the NOAA Assistant Administrator has found good cause to make these regulations effective upon publication.

List of Subjects in 50 CFR Part 285

Administrative practices and procedures, Fish, Fisheries, Fishing, Imports, International organizations, Penalties, Reporting requirements.

Dated: June 8, 1982.

William H. Stevenson,

Deputy Assistant Administrator, National Marine Fisheries Service.

Subparts A and B of 50 CFR Part 285 are revised to read as follows:

PART 285—ATLANTIC TUNA FISHERIES**Subpart A—General**

Sec.

285.1 Purpose and scope.

285.2 Definitions.

Sec.

- 285.3 Prohibitions.
- 285.4 Civil penalties.
- 285.5 Enforcement.
- 285.6 Civil procedures.
- 285.7 Relationships to other laws and regulations.

Subpart B—Atlantic Bluefin Tuna (*Thunnus thynnus*)

- 285.20 Effective period of regulations.
- 285.21 Vessel permits.
- 285.22 Dealer permits.
- 285.23 Dealer recordkeeping and reporting.
- 285.24 Metal tags.
- 285.25 Prohibitions.
- 285.26 Size classes.
- 285.27 Penalties.
- 285.28 Purse seine vessel inspection.
- 285.29 Fishing seasons.
- 285.30 Quotas.
- 285.31 Incidental catch.
- 285.32 Catch limits.
- 285.33 Tag and release program.

Authority: 16 U.S.C. 971 *et seq.*

Subpart A—General**§ 285.1 Purpose and scope.**

(a) The Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971–971h) authorizes the Secretary to implement the recommendations of the International Commission for the Conservation of Atlantic Tunas (ICCAT). The Secretary's authority under the Act has been delegated to the Assistant Administrator.

(b) These regulations implement the ICCAT recommendations for persons and vessels subject to the jurisdiction of the United States.

(c) This part does not apply to any person or vessel authorized by the Commission, the Regional Director, the Director of the Southeast Fisheries Center, or any State upon approval by the Regional Director, to engage in fishing for research purposes.

(d) Under Section 9(d) of the Act and § 285.7, determinations made by the Assistant Administrator that the provisions of this part apply within the territorial sea of the United States adjacent to, and within the boundaries of, the States of Florida, Georgia, South Carolina, North Carolina, Virginia, Maryland, Delaware, New Jersey, New York, Massachusetts, New Hampshire, and the Commonwealths of Puerto Rico and the Virgin Islands, and, with the exceptions of §§ 285.30(a), 285.30(d) (2) and (3), 285.31(a), and 285.32(c), within the territorial sea of the United States adjacent to, and within the boundaries of the State of Maine, continue in effect.

§ 285.2 Definitions.

The terms used in this part are defined in the Act and as follows:

"Act" means the Atlantic Tunas Convention Act of 1975, 16 U.S.C. 971–971h.

"Albacore" means the fish species *Thunnus alalunga*.

"Angling" means fishing for or catching, or the attempted fishing for or catching, fish by any person (angler) with a hook attached to a line which is hand held or by rod and reel designed or manufactured for this purpose.

"Assistant Administrator" means the Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration.

"Atlantic bluefin tuna" means the fish species *Thunnus thynnus thynnus*. Class sizes for Atlantic bluefin tuna are defined in § 285.26.

"Atlantic bonito" means the fish species *Sarda chiliensis* or *Sarda sarda*.

"Authorized Officer" means

(a) Any commissioned, warrant, or petty officer of the U.S. Coast Guard;

(b) Any certified enforcement agent or Special Agent of the NMFS;

(c) Any officer designated by the head of any Federal or State agency which has entered into an agreement with the Secretary and the Commandant of the U.S. Coast Guard to enforce the provisions of the Act; or

(d) Any U.S. Coast Guard personnel accompanying and acting under the direction of any person described in paragraph (a) of this definition.

"Bigeye tuna" means the fish species *Thunnus obesus*.

"Buy boat" means any vessel used by a dealer in purchasing or receiving Atlantic bluefin tuna from any person or fishing vessel engaged in fishing for any tuna.

"Cargo vessel" means any fishing vessel used for transporting fish or fish products.

"Commercial activity" means any activity, other than fishing, of industry, trade, and commerce, including but not limited to the buying or selling of a regulated species and activities conducted for the purpose of facilitating such buying and selling.

"Commission" means the International Commission for the Conservation of Atlantic Tunas established under Article III of the Convention.

"Convention" means the International Convention for the Conservation of Atlantic Tunas, signed at Rio de Janeiro May 14, 1966, 20 U.S.T. 2887, TIAS 6767, including any amendments or protocols thereto, which are binding upon the United States.

"Dealer" means any person who engages in a commercial activity with respect to a regulated species or parts thereof.

"Dressed weight" means the weight of a fish after it has been gilled, gutted, beheaded, and definned.

"Fish" or "fishing" means the catching or fishing for, or the attempted catching or fishing for, any species of fish covered by the Convention, or any activities in support of fishing.

"Fishing trip" means the time period between when a fishing vessel departs from port to carry out fishing operations and the time such vessel returns to port or offloads any of its catch.

"Fishing vessel" means any vessel engaged in fishing, processing, or transporting fish loaded on the high seas, or any vessel outfitted for such activities.

"Fishing week" means a period of time beginning at 0001 hours local time on Sunday, and ending at 2400 hours local time on the following Saturday.

"Fork length" means a measurement of the length of Atlantic bluefin tuna taken in a straight line along the middle of the lateral surface from the tip of the snout to the fork of the tail.

"Handgear" means handline, harpoon, or rod and reel.

"Handline" or "handline gear" means fishing gear which is released by hand and consists of one main line of variable length to which is attached one or two leaders and hooks. Handlines are retrieved only by hand, and not by mechanical means.

"Longline" or "longline gear" means fishing gear which is set horizontally, either anchored, floating, or attached to a vessel, which consists of a main or groundline of three or more gangions and hooks. A longline may be retrieved by hand or mechanical means.

"Metal tag" means the flexible, selflocking ribbon of metal issued by the NMFS for the identification of Atlantic bluefin tuna required under § 285.24.

"Metric ton" (mt) means 2204.6 pounds (1000 kilograms).

"NMFS" means the National Marine Fisheries Service, National Oceanic and Atmospheric Administration.

"Person" means any individual, partnership, corporation, or association subject to the jurisdiction of the United States.

"Plastic tag" means the plastic or combination plastic and metal marker issued with a tag and release permit under § 285.33(b).

"Purse seining" means fishing for or catching a regulated species by means of an encircling net and associated gear.

"Regional Director" means:

(a) For purposes of Atlantic bluefin tuna, the Regional Director, Northeast Region, National Marine Fisheries Service, Federal Building, 14 Elm Street, Gloucester, Massachusetts 01930-3799; and

(b) For purposes of yellowfin tuna, the Regional Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731.

"Regulated species" means Atlantic bluefin tuna, yellowfin tuna, skipjack tuna, albacore, or bigeye tuna.

"Regulatory area" means all waters of the Atlantic Ocean including adjacent seas, except the waters over which the individual States exercise jurisdiction unless the Assistant Administrator has determined otherwise in accordance with this part, as noted in § 285.1(d).

"Reporting week" means a period of time beginning at 0001 hours local time on Sunday, and ending at 2400 hours local time the following Saturday.

"Round" or "round weight" means a fish or the weight of a fish before gilling, gutting, beheading, and definning.

"Secretary" means the Secretary of Commerce or an individual to whom appropriate authority has been delegated.

"Short ton" (st) means 2,000 pounds (907 kilograms).

"Skipjack tuna" means the fish species *Katsuwonus pelamis*.

"State" means any State of the United States, the District of Columbia, the Commonwealths of Puerto Rico and the Virgin Islands, and territories and possessions of the United States.

"Tuna" means Atlantic bluefin tuna, yellowfin tuna, skipjack tuna, albacore, or bigeye tuna.

"Yellowfin tuna" means the fish species *Thunnus albacares*.

§ 285.3 Prohibitions.

It is unlawful—

(a) For any person in charge of a fishing vessel or for any fishing vessel subject to the jurisdiction of the United States to engage in fishing or to land any tuna in violation of these regulations.

(b) For any person to land, transship, ship, transport, purchase, sell, offer for sale, import, export, or have in custody, possession, or control any fish which the person knows, or should have known, was taken or retained contrary to this part, without regard to the citizenship of the person or registry of the fishing vessel which took the fish.

(c) For a dealer or any person in charge of any fishing vessel subject to the jurisdiction of the United States to fail to make, keep, or furnish reports required by this part.

(d) For a dealer or any person in charge of any fishing vessel subject to the jurisdiction of the United States to obstruct or to refuse to allow any authorized officer to enter the dealer's premises or to board the vessel in order to search or inspect its catch, equipment,

books, documents, records, or other articles, or to question the persons onboard under the provisions of this part.

(e) For any person to import from any country any regulated species in any form subject to regulation under a recommendation of the Commission, or any fish in any form not under regulation but under investigation by the Commission, during the period such fish have been denied entry under this part.

§ 285.4 Civil penalties.

Any person who—

(a) Violates any provision of § 285.3 (a) or (b) of this part shall be assessed a civil penalty of not more than \$25,000 for a first violation and a civil penalty of not more than \$50,000 for any subsequent violation;

(b) Violates any provision of § 285.3 (c) or (d) of this part shall be assessed a civil penalty of not more than \$1,000 for a first violation and a civil penalty of not more than \$5,000 for any subsequent violation; or

(c) Violates any provision of § 285.3(e) shall be assessed a civil penalty of not more than \$100,000.

§ 285.5 Enforcement.

(a) This part and the provisions of the Act shall be enforced jointly by the Secretary, the Secretary of the Department in which the U.S. Coast Guard is operating, and the U.S. Customs Service.

(b) Enforcement Agents of the NMFS shall enforce provisions of this part and the Act on behalf of the Secretary and may take any actions authorized under this part and the Act with respect to enforcement. By agreement, the Secretary may utilize the personnel, services, and facilities of any other Federal Agency to enforce the Act and, also may designate personnel of a State to enforce the Act.

§ 285.6 Civil procedures.

(a) The method for assessment of civil penalties for violation of these regulations or the Act shall be in accordance with the procedures set forth in 15 CFR Part 904.

(b) In view of the perishable nature of tuna when not processed otherwise than by chilling or freezing, authorized officers may cause to be sold, for not less than its reasonable market value, unchilled or unfrozen tunas that may be seized and forfeited under the Act and this part.

(c) The proceeds of any sale made under paragraph (b) of this section must be remitted by the purchaser to the Regional Director. The Regional Director shall deposit and retain the proceeds in

the Suspense Account of the NMFS (Account No. 14x6875(17)) after deducting the reasonable cost of the sale, if any, pending judgement of the court or other disposition of the case.

§ 285.7 Relationship to other laws and regulations.

(a) These regulations apply within the boundaries of any State bordering the convention area if the Assistant Administrator determines, and so notifies the State, that the State:

(1) Has not enacted laws or promulgated regulations which implement the recommendations of the Commission within its waters within 30 days after the promulgation of these regulations; or

(2) Has enacted such laws or promulgated such regulations, but such laws or regulations are less restrictive than the regulations promulgated under the Act to implement such recommendations of the Commission, or are not being enforced effectively.

(b) To ensure that the purposes of this part are carried out, the Assistant Administrator shall review continually the relevant laws and regulations of the pertinent States and the extent to which such laws and regulations are enforced.

(c) Upon notice of a determination adverse to its interests under § 285.7(a), a State may request a hearing on the record.

Subpart B—Atlantic Bluefin Tuna ("Thunnus thynnus thynnus")

§ 285.20 Effective period of regulations.

This subpart shall remain in effect until superseded, amended, or otherwise suspended.

§ 285.21 Vessel permits.

(a) *Permit requirements.* Each vessel which fishes for or takes Atlantic bluefin tuna, except vessels being used by anglers fishing for young school, school, or medium Atlantic bluefin tuna under § 285.32(c), must have an appropriate permit issued under this section.

(b) *Categories of permits.* Each vessel may be permitted in only one of the following categories: General (handgear), Harpoon Boat, or Incidental Catch (purse seine, longline, traps, or fixed gear). A vessel may fish only under the quota for the category in which it is permitted, and may use only gear appropriate to that category. Anglers may also fish for young school, school, and medium bluefin tuna from a vessel that has a permit for other types of fishing, but anglers will remain subject to provisions of this subpart applicable to angling. Only those purse

seine vessels, or their replacements, which were granted allocations and landed Atlantic bluefin tuna in the directed fishery for Atlantic bluefin tuna during the period 1980 through 1981 will be issued permits to take Atlantic bluefin tuna incidentally as described in § 285.31(a). Any vessel which was replaced with another vessel and retired from the fishery during the period 1980 through 1981 will not be issued a permit to take Atlantic bluefin tuna under § 285.31(a).

(c) *Registration procedure.* (1) Any vessel owner applying for an Atlantic bluefin tuna permit under this section shall indicate on the permit application the category in which the vessel is to be registered. Except for purse seine vessels, an owner may change the category in which the vessel is registered by notifying the Regional Director in writing before May 15.

(2) All permit applications under this section must be submitted and signed by the vessel owner on an appropriate form obtained from the Regional Director. The application must be submitted to the Regional Director at least 30 days before the date on which the applicant desires to have the permit made effective. The application must include the name and address of the vessel owner, the name of the vessel, the port where the vessel is docked, the official registration or documentation number, the length of the vessel, the tonnage (if known), the area to be fished, and the category in which the vessel is to be registered.

(d) *Issuance.* (1) The Regional Director shall issue a permit within 30 days of receipt of a completed application.

(2) The Regional Director shall notify the applicant of any deficiency in the application. If the applicant fails to correct the deficiency within 15 days following the date of notification, the application will be considered abandoned.

(e) *Duration.* A permit issued under this section will remain valid until it is suspended, revoked or expires. A permit issued under this section will expire when the owner or name of the vessel changes.

(f) *Alteration.* Any permit issued under this section which is substantially altered, erased, or mutilated is invalid.

(g) *Replacement.* Replacement permits may be issued by the Regional Director. An application for a replacement permit will not be considered a new application.

(h) *Transfer.* Permits issued under this section are not transferable or assignable. A permit is valid only for the vessel and owner for which it is issued.

(i) *Display.* Any permit issued under this section must be carried on board the vessel at all times. The permit must be displayed for inspection upon request of any Authorized Officer or any employee of the NMFS designated by the Regional Director for such purpose.

(j) *Modification.* Permits issued under this section may be modified, suspended, or revoked by the Assistant Administrator for violations of the Act, or any of the Act's implementing regulations. Any action to modify, suspend or revoke a permit issued under this section will follow the procedures of 15 CFR Part 904.

(k) *Fees.* No fee is required for any permit issued under this section.

(l) *Change in application information.* Any change in the information contained in an application submitted under this section must be reported in writing to the Regional Director within 15 days of the change.

(Approved by the Office of Management and Budget under OMB control number 648-0097).

§ 285.22 Dealer permits.

(a) *General.* Any person purchasing or receiving Atlantic bluefin tuna for a commercial purpose from any person or vessel which catches such tuna shall have a valid permit required under this section. If such purchase or receipt is made from a buy boat, the buy boat must have a valid permit under paragraph (l) of this section.

(b) *Application.* An application for a dealer permit must be made in writing, be signed by the applicant, and be submitted to the Regional Director at least 30 days before the date upon which the applicant desires to have the permit made effective. Applications must contain the following information:

(1) The name, mailing address, and telephone number of the applicant; and

(2) The expected disposition of all Atlantic bluefin tuna purchased (e.g., foreign or domestic markets).

(c) *Issuance.* (1) The Regional Director shall issue a permit within 30 days of receipt of a completed application; provided, however, that the Regional Director may exercise his discretion not to issue a permit to any applicant who has violated any provision of the Act or regulations of this part.

(2) The Regional Director shall notify the applicant of any deficiency in the application. If the applicant fails to correct the deficiency within 15 days following the date of notification, the application will be considered abandoned.

(d) *Duration.* Any permit issued under this section will remain valid until December 31 of the year for which it is

issued, or until it is suspended or revoked.

(e) *Alteration.* Any permit which is substantially altered, erased, or mutilated is invalid.

(f) *Replacement.* Replacement permits may be issued by the Regional Director. An application for a replacement permit will not be considered a new application.

(g) *Transfer.* Permits issued under this section are not transferable or assignable. A permit is valid only for the dealer to whom it is issued.

(h) *Inspection.* A permit issued under this section must be kept at the principal place of business of the dealer. The permit must be displayed for inspection upon request of any Authorized Officer, or any employee of the NMFS designated by the Regional Director for that purpose.

(i) *Modification.* Permits issued under this section may be modified, suspended, or revoked by the Assistant Administrator for violations of the Act, or any of the Act's implementing regulations. Any action to modify, suspend or revoke a permit issued under this section will follow the procedures of 15 CFR Part 904.

(j) *Fees.* No fee is required for any permit issued under this section.

(k) *Change in application information.* Any change in the information contained in an application submitted under this section must be reported in writing to the Regional Director within 15 days of the change.

(l) *Buy boats.* Each buy boat must have a dealer permit issued under this section. No vessel to which a valid permit has been issued under § 285.21 may be issued a dealer permit under this section for buy boat operations. No buy boat will be issued a dealer permit under this section unless its owner or operator agrees in writing to allow an individual authorized by the Regional Director to accompany the buy boat on any trip to observe operations. The Regional Director shall provide reasonable notice to the owner or operator of any buy boat that an individual will be placed on board. The Regional Director shall reimburse the owner of any buy boat for any expenses which the Regional Director determines to be reasonable and which are directly related to the placement of an individual on that buy boat. Buy boats may not purchase or transport Atlantic bluefin tuna caught incidentally by longlines.

(Approval by the Office of Management and Budget is pending.)

§ 285.23 Dealer recordkeeping and reporting.

Any person issued a dealer permit under § 285.22:

(a) Shall submit to the Regional Director a daily report on a reporting card provided by the NMFS, within 24 hours of the purchase or receipt of each giant Atlantic bluefin tuna. Each reporting card must show the Atlantic bluefin tuna vessel permit number, metal tag number affixed to the fish by the dealer or assigned by an Authorized Officer, the date landed, the port where landed, the round or dressed weight, the fork length, gear used, and area where caught. This reporting card must be signed by the vessel permit holder or vessel operator;

(b) Shall submit to the Regional Director a weekly report on forms supplied by the NMFS, within two days after the end of each reporting week in which Atlantic bluefin tuna were purchased or received. Each report must specify accurately and completely: the number of tuna purchased or received; location where the tuna was caught; the disposition of the tuna (names, addresses and, where applicable, country of destination); the source of the tuna (names and addresses); date; metal tag numbers (where applicable); round or dressed weight and fork length (by individual tuna); and any other information requested by the Regional Director. Also, dealers using buy boats, in addition to the information required above, shall include the precise time when any tuna were received on the buy boat;

(c) Shall allow an Authorized Officer, or any employee of the NMFS designated by the Regional Director for this purpose, to inspect any records of transfers, purchases, or receipts of Atlantic bluefin tuna;

(d) Shall retain in his/her possession a copy of each weekly report for a period of two years from the date on which it was submitted to the Regional Director.

(e) Each operator of a buy boat, in addition to the above, shall notify the Regional Director of any offloading and request a vessel inspection at least six hours before such offloading. Arrangements may be made by calling (617) 281-3600, extension 252, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, local time, or at all other times during the day and weekends, by calling (617) 992-7711. In making the request for inspection, the owner or operator of the buy boat or his/her designated representative must provide his/her name, the buy boat's name and permit number, the number of tuna received, and the location and anticipated time of landing in port.

(Approved by the Office of Management and Budget under OMB control number 648-0013).

§ 285.24 Metal tags.

(a) *Issuance of tags.* Any person receiving a dealer's permit under the provisions of § 285.22 will be issued numbered metal tags by the NMFS.

(b) *Transfer of tags.* Tags issued under paragraph (a) of this section are not transferable.

(c) *Affixing tags.* (1) Giant Atlantic bluefin tuna must be tagged immediately by a dealer or his/her agent upon offloading from a vessel. The tag, issued under paragraph (a) of this section, shall be affixed to the tuna between the fifth dorsal finlet and the keel.

(2) Any person who catches a giant Atlantic bluefin tuna and does not transfer it to a permitted dealer shall contact the nearest NMFS enforcement office within 24 hours of landing such tuna and make the tuna available for inspection and attachment of the metal tag.

(d) *Removal of tags.* A metal tag affixed to any giant Atlantic bluefin tuna must remain on the tuna until the tuna is either cut into portions or sold for export from the United States. If the tuna or tuna parts are subsequently packaged for transport for domestic commercial use or for export, the tag must be attached to the outside of the package or container and the tag number must be written legibly and indelibly on the outside of any package or container.

§ 285.25 Prohibitions.

It is unlawful for any person or vessel subject to the jurisdiction of the United States:

(a) To fish for or catch Atlantic bluefin tuna without a valid permit required under § 285.21 and carried onboard the vessel;

(b) To fish for or catch Atlantic bluefin tuna after fishing has been closed or before fishing has commenced under § 285.29, except under the provisions of § 285.31 or § 285.33;

(c) To fish for, catch or possess Atlantic bluefin tuna in excess of the quotas specified in § 285.30 except under the provisions of § 285.33;

(d) To fish for, catch, or possess Atlantic bluefin tuna in excess of the catch limits specified in § 285.32 except under the provisions of § 285.33;

(e) To fish for or catch Atlantic bluefin tuna within 100 yards (91.5 meters) of the cork line of a purse seine net used by an vessel conducting scientific research operations authorized by the NMFS;

(f) To catch and retain Atlantic bluefin tuna in excess of the incidental catch allowed in § 285.31;

(g) To land any Atlantic bluefin tuna in forms other than round, or with the head removed;

(h) To retain any Atlantic bluefin tuna caught under a tag and release permit issued under § 285.33;

(i) To purchase, receive, or transfer any Atlantic bluefin tuna at sea from a person or vessel engaged in fishing for such tuna without a valid dealer permit for buy boat operations issued under § 285.22;

(j) To sell, offer for sale, or transfer any Atlantic bluefin tuna to any person other than a dealer permitted under § 285.22;

(k) To engage in fishing with a vessel holding a permit under § 285.21(a) unless the vessel travels to and from the area where it will be fishing under its own power and the person operating that vessel brings under control (secured to the catching vessel or boated) any Atlantic bluefin tuna with no assistance from other vessels, except in circumstances where the safety of the vessel or its crew is jeopardized or due to other circumstances beyond the control of the operator;

(l) To fail to release immediately with a minimum of injury any Atlantic bluefin tuna which will not be retained;

(m) To fail to affix immediately to any giant Atlantic bluefin tuna, between the fifth dorsal finlet and the keel, an individually numbered metal tag when the tuna has been received or purchased by that person for a commercial purpose from any person or vessel having caught such tuna;

(n) To remove any metal tag affixed to an Atlantic bluefin tuna under § 285.24 before removal is allowed under that section, or fail to write the tag number on the shipping package or container as prescribed by that section;

(o) To purchase or transport with a buy boat any Atlantic bluefin tuna captured incidentally by longlines;

(p) To begin fishing or off loading from any purse seine vessel to which a permit has been issued under § 285.21 any Atlantic bluefin tuna without first requesting an inspection of the vessel in accordance with § 285.28;

(q) To fail to report the taking of any Atlantic bluefin tuna to which a plastic tag has been affixed under a bona fide tag and release program conducted by the NMFS or any other recognized scientific organization;

(r) To falsify or fail to make, keep, maintain, or submit any reports, or other record required by this subpart;

(s) To refuse to allow an Authorized Officer to make inspections for the purpose of checking any records relating to the catching, harvesting, landing, purchase or sale of any Atlantic bluefin tuna required by this subpart;

(t) To make any false statement, oral or written, to an Authorized Officer concerning the catching, harvesting, landing, purchase, sale, or transfer of any Atlantic bluefin tuna;

(u) To fish for or catch giant Atlantic bluefin tuna with longline gear except as provided in § 285.31(d);

(v) To fish for or catch giant Atlantic bluefin tuna with longline gear, or while having longline gear on board, if the vessel is registered in the General category under § 285.21(b);

(w) To violate any other provision of this subpart, the Act, or any other regulations promulgated under the Act.

§ 285.26 Size classes.

For any Atlantic bluefin tuna which is landed with the head removed, there shall be a rebuttable presumption for purposes of this subpart that the tuna, when caught, fell into a size class in accordance with the following table. For this purpose, all measurements must be taken in a straight line along the middle of the lateral surface from the forward most part of the beheaded fish to the fork of the tail. Approximate round weights are given for illustrative purposes only.

Original size class (fork length)	Approximate round weights	Length with head off
Young school tuna: Less than 26 inches (66 cm).	Less than 14 pounds.	Less than 18 inches (46 cm).
School tuna: Equal to 26 inches (66 cm) but less than 57 inches (145 cm).	From 14 pounds but less than 135 pounds.	18 inches (46 cm) but less than 40 inches (102 cm).
Medium tuna: Equal to 57 inches (145 cm) but less than 77 inches (196 cm).	From 135 pounds but less than 310 pounds.	40 inches (102 cm) but less than 54 inches (137 cm).
Giant tuna: 77 inches (196 cm) or more.	310 pounds or more.	54 inches (137 cm) or more.

§ 285.27 Penalties.

(a) Any person who violates paragraphs (a) through (p), inclusive, or paragraphs (s) through (v), inclusive, of § 285.25 shall be assessed a civil penalty of not more than \$25,000 for a first violation and a civil penalty of not more than \$50,000 for a subsequent violation.

(b) Any person who violates paragraphs (q) or (r), of § 285.25 shall be

assessed a civil penalty of not more than \$1,000, and a civil penalty of not more than \$5,000 for a subsequent violation.

(c) Any person who violates paragraph (w) of § 285.25 shall be assessed a civil penalty in accordance with the criteria set forth in 16 U.S.C. 971e.

§ 285.28 Purse seine vessel inspection.

Any owner or operator of a purse seine vessel with a permit issued under § 285.21 shall request an inspection of the vessel by a Special Agent of the NMFS before offloading any Atlantic bluefin tuna. Request for such inspection may be made by calling (617) 281-3600 extension 252; or (617) 992-7711. Requests must be made at least 24 hours before offloading.

§ 285.29 Fishing seasons.

(a) *Commencement.* Fishing in the regulatory area for Atlantic bluefin tuna will begin:

(1) On January 1 of each year:
 (i) For vessels permitted in the Incidental Catch category,
 (ii) For anglers fishing for young school, school, and medium tuna, and
 (iii) For anglers participating in the tag and release program.

(2) On June 1 of each year:
 (i) For vessels permitted in the General category and
 (ii) For vessels permitted in the Harpoon Boat category.

(3) Consistent with the Convention, the Act and this part, the Assistant Administrator may change the commencement date under this section for any vessel permit category or person (angler) if the Administrator determines that the changed date will enable scientific research on the status of the stock to be conducted more effectively and will not prevent the quotas for the affected fishery from being caught, based upon historical catch data or other relevant information. The Assistant Administrator shall publish a notice in the *Federal Register* of any change in the commencement date(s) for fishing under this section at least 60 days before commencement of the affected fishery. Nothing in this paragraph will be construed to invalidate any more restrictive commencement date established by any State in waters under its jurisdiction.

(b) *Closure.* (1) The Assistant Administrator shall monitor catch and landing statistics of Atlantic bluefin tuna. On the basis of these statistics, the Assistant Administrator shall project a date when the catch of Atlantic bluefin tuna will equal any quota under § 285.30, and shall publish a notice in

the *Federal Register* stating that fishing for or retaining Atlantic bluefin tuna under that quota must cease on that date at a specified hour.

(2) Angling for Atlantic bluefin tuna under a tag and release program under § 285.33 may continue even after a quota closure.

(3) Nothing in this paragraph will be construed to invalidate any more restrictive closure date established by any State in waters under its jurisdiction.

§ 285.30 Quotas.

Total quota. The total annual amount of Atlantic bluefin tuna which may be caught and retained by persons and vessels subject to U.S. jurisdiction in the regulatory area is 667 st (605 mt), subdivided as follows:

(a) The total amount of giant Atlantic bluefin tuna which may be caught and retained in the regulatory area by vessels permitted in the General category under § 285.21(b) is 310 st (281 mt). No more than 284 st (258 mt) may be taken before September 15.

(b) The total amount of giant Atlantic bluefin tuna which may be caught and retained in the regulatory area by vessels permitted in the Harpoon Boat category under § 285.21(b) is 43 st (39 mt).

(c) The total amount of young school, school, and medium Atlantic bluefin tuna which may be caught and retained in the regulatory area by anglers is 99 st (90 mt).

(d) The total amount of Atlantic bluefin tuna which may be caught and retained in the regulatory area by vessels permitted in the Incidental Catch category under § 285.21(b) is 215 st (195 mt). This quota is further subdivided as follows:

(1) 44 st (40 mt) for longline vessels;
 (2) 6 st (5 mt) for vessels fishing for species of fish other than tuna; and
 (3) 165 st (150 mt) for purse seine vessels fishing for tunas other than Atlantic bluefin tuna, which will be allocated equally by the Regional Director among the vessels eligible under § 285.21(b).

§ 285.31 Incidental catch.

(a) Subject to the quotas in § 285.30, purse seine vessels fishing for tunas other than Atlantic bluefin tuna and possessing an Atlantic bluefin tuna Incidental Catch permit under § 285.21 may catch, during any fishing trip, Atlantic bluefin tuna, provided that the total amount of Atlantic bluefin tuna taken does not exceed 10 percent by weight of all other tuna species onboard the vessel at the end of each fishing trip.

Any vessel that has not taken its allocation under § 285.30(d)(3) at the termination of the vessel's fishing for species of tuna other than Atlantic bluefin tuna, may fish for, and retain the remainder of its allocation as giant Atlantic bluefin tuna.

(b) *Herring, mackerel, and menhaden purse seine vessels and vessels using fixed gear other than longlines or traps (pounds, weirs, and gillnets)*. Subject to the quotas in § 285.30, any person operating a vessel fishing principally for species of fish other than tuna and possessing an Atlantic bluefin tuna Incidental Catch permit under § 285.21 may catch, during any fishing trip, Atlantic bluefin tuna of any size class, provided that, the total amount of Atlantic bluefin tuna taken does not exceed 2 percent, by weight, of all other fish onboard the vessel at the end of each fishing trip.

(c) *Traps*. Subject to the quotas in § 285.30, any person operating a vessel possessing an Incidental Catch permit issued under § 285.21 which catches Atlantic bluefin tuna incidentally while fishing with traps, may retain Atlantic bluefin tuna, provided, that such tuna do not exceed 2 percent, by weight, of the total amount of all other fish species caught within the preceding 30-day period.

(d) *Longlines*. Subject to the quotas in § 285.30, any person operating a vessel using longline gear possessing an Incidental Catch permit issued under § 285.21 may land giant Atlantic bluefin tuna as an incidental catch. The amount of Atlantic bluefin tuna may not exceed:

(1) Two fish per vessel, per trip, south of 36°00' N. latitude, and

(2) Two percent by weight of all other fish onboard at the end of each fishing trip, north of 36°00' N. latitude.

§ 285.32 Catch limits.

(a) From June 1 through August 14, operators of vessels permitted in the General Category may catch and retain only one giant Atlantic bluefin tuna per fishing week, per vessel and may

possess only one giant Atlantic bluefin tuna at any time. Beginning on August 15, vessels registered in the General Category may catch and retain one giant Atlantic bluefin tuna per day, unless the Regional Director determines and publishes a notice that this increase in catch rate will result in a closure of the fishery before September 15.

(b) Vessels permitted in the Harpoon Boat category are not restricted in their catch rate of giant Atlantic bluefin tuna.

(c) Persons angling in the regulatory area may catch and retain no more than four young school, school, or medium Atlantic bluefin tuna each day, only one of which may be a medium.

§ 285.33 Tag and release program.

(a) *Tag and release permits*. Any angler who wishes to tag and release Atlantic bluefin tuna shall obtain a valid tag and release permit, and tags issued by the NMFS under paragraph (b) of this section. A tag and release permit and tags may be obtained by sending an application to the Atlantic Bluefin Tuna Tagging Program, Southeast Fisheries Center, NMFS, 75 Virginia Beach Drive, Miami, Florida 33149-1099. The application must include the name of the vessel, official U.S. Coast Guard or State number(s), name(s) of the owner and master, and the general area(s) in which the tag and release activity will be carried out. The Center Director shall issue a tag and release permit and tags within 30 days of receipt.

(b) *Plastic tags*. Anglers receiving a tag and release permit under paragraph (a) of this section also will receive plastic tags, reporting cards, and detailed instructions for their use. All Atlantic bluefin tuna caught under a tag and release permit must be tagged before they are released. Such tuna must be released immediately with a minimum of injury.

(Approved by the Office of Management and Budget under OMB control number 0648-0031).

[FR Doc. 82-15816 Filed 6-9-82; 8:45 am]

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Proposed Rules

Federal Register

Vol. 47, No. 113

Friday, June 11, 1982

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 52

United States Standards for Grades of Frozen Peas¹

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: The purpose of this proposed rule is to revise the voluntary U.S. grade standards for frozen peas. The proposed rule was developed by the U.S. Department of Agriculture at the request of the frozen food industry. The proposed rule would: (1) Coordinate USDA's standards with those of the Food and Drug Administration and Codex Alimentarius Commission, where practicable; (2) convert the current variables (score points) standards to attributes type standards; and (3) replace dual grade nomenclature with single letter grade designations. Its effect would be to improve the standards and promote efficient and orderly marketing.

DATES: Comments must be received on or before September 30, 1982.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposal. Comments must be sent in duplicate to the Hearing Clerk, U.S. Department of Agriculture, Room 1077, South Building, Washington, D.C. 20250. Comments should reference the date and page number of this issue of the Federal Register and will be made available for public inspection in the Office of the Hearing Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Mr. Romeo V. Villaluz, Processed Products Branch, Fruit and Vegetable Division, Agricultural Marketing

Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447-6247.

SUPPLEMENTARY INFORMATION: William T. Manley, Acting Administrator, Agricultural Marketing Service has determined that this proposed rule is not major. It will not result in an annual effect on the economy of \$100 million or more. There will be no major increase in cost or prices for consumers; individual industries; Federal, State, or local government agencies; or geographic regions. It will not result in significant adverse effects on competition, employment, investments, productivity, innovations, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

William T. Manley, Acting Administrator, Agricultural Marketing Service, has determined that this proposed rule will not have a significant economic impact on a substantial number of small entities, as defined in the Regulatory Flexibility Act, Pub. L. 96-354 (5 U.S.C. 601), because it reflects current marketing practices.

The current U.S. grade standards for frozen peas were last revised in 1959. The U.S. Food and Drug Administration, on December 31, 1974, promulgated a "Standard of Identity and Minimum Standard of Quality for Frozen Peas." The Codex Alimentarius Commission has issued Recommended International Standards for Quick Frozen Peas. These developments, along with changes in packing practices, suggest a need for reevaluating the quality requirements of the current U.S. Standards for Grades of Frozen Peas. The American Frozen Food Institute requested an on-line acceptance plan that incorporates an objective step-by-step procedure for reporting on-line product quality, continually, without having to wait until the end of the production shift or day to determine product acceptance. By incorporating this procedure in the standards, the proposal would have an overall effect of simplifying and clarifying the U.S. grade standards. It would enable processors' line personnel to trace the status of product quality. While the classification of defects and defective product for official grading purposes would still require the expertise of the Department's Agricultural Commodity Graders, the final results of grading would be more

easily understood by other interested persons.

The proposal would also further simplify the U.S. grade standards by replacing dual grade nomenclature with single letter grade designations. Under the proposal, "U.S. Grade A" or "U.S. Fancy," "U.S. Grade B" or "U.S. Extra Standard," and "U.S. Grade C" or "U.S. Standard" would become simply "U.S. Grade A," "U.S. Grade B" and "U.S. Grade C."

A Notice of Proposed Rulemaking was published in the Federal Register on March 2, 1977 (42 FR 12058), to revise the voluntary U.S. grade standards for frozen peas. No written exceptions were filed to this proposal; however, the affected industries' reaction was unfavorable. Following discussions held at meetings between the various industry advisory committees and USDA Agricultural Marketing Specialists, it was concluded that a suitable "cooling-off" period would be desirable to enable on-site use of the proposed U.S. standards. During this period, other changes occurred which affected the voluntary grade standards. These subsequent changes included uniform grade nomenclature, modified traditional grading procedures, and a change in format.

List of Subjects in 7 CFR Part 52

Processed fruits and vegetables, Food grades and standards.

Accordingly, the proposed revision of Subpart—United States Standards for Grades of Frozen Peas (7 CFR 52.3511 through 52.3520) would read as follows:

PART 52—PROCESSED FRUITS AND VEGETABLES, PROCESSED PRODUCTS THEREOF, AND CERTAIN OTHER PROCESSED FOOD PRODUCTS

Subpart—United States Standards for Grades of Frozen Peas

Sec.	
52.3511	Product descriptions.
52.3512	Size designations.
52.3513	Definitions of terms.
52.3514	Recommended sample unit size.
52.3515	Grades.
52.3516	Factors of quality.
52.3517	Classification of defects.
52.3518	Tolerances for defects.
52.3519	Sample size.
52.3520	Size requirement criteria.
52.3521	Quality requirement criteria.

¹ Compliance with provisions of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act, or with applicable State laws and regulations.

Authority: Agricultural Marketing Act of 1946, Secs. 203, 205, 60 Stat. 1087, as amended, 1090, as amended (7 U.S.C. 1622, 1624).

§ 52.3511 Product description.

"Frozen Peas" is the product represented as defined in the current Standards of Identity for Frozen Peas (21 CFR) issued under the Federal Food, Drug, and Cosmetic Act.

§ 52.3512 Size designations.

General. Size of frozen peas is not incorporated in the grades of the finished product since size is not a factor of quality for these standards. If offered for a given size, the size designations and specifications shall be as shown in Table I; size defects classified as shown in Table II; and acceptance criteria as shown in Table III.

TABLE I.—SIZE DESIGNATIONS

Size designation	Specification	
	Millimeters	Inches
Extra small	Up to 7.5	Up to 0.295
Very small	Up to 8.2	Up to 0.32
Small	Up to 8.7	Up to 0.34
Medium	Up to 10.2	Up to 0.40
Large	Over 10.2	Over 0.40

TABLE II.—CLASSIFICATION OF SIZE DEFECTS

Defect	Classification	
	Minor	Major
Next size larger than designated size (each unit).	X	
Two sizes larger than designated size (each unit).		X

TABLE III.—TOLERANCES FOR SIZE DEFECTS

	Total ^a	Major
AQL ¹	20.0	4.0

¹AQL expressed as percent defective.
^aTotal = Minor + Major.

§ 52.3513 Definitions of terms.

As used in these U.S. standards, unless otherwise required by the context, the following terms shall be construed, respectively, to mean:

(a) **Acceptable Quality Level (AQL)** means that maximum percent of defective units or the maximum number of defects per hundred units of product that, for the purpose of acceptance sampling, can be considered satisfactory as a process average.

(b) **Blemished** means peas that are stained, spotted, discolored, or affected by pathological or insect injury to the extent that the appearance or eating quality is:

- (1) Slightly affected;
- (2) Materially affected;

(3) Seriously affected (including hard and shriveled peas).

(c) **Brightness** means the extent that the overall appearance of the sample unit as a mass is affected by dullness.

(1) Grade A—Good overall brightness; not affected by dullness;

(2) Grade B—Reasonably good overall brightness, not more than slightly affected by dullness;

(3) Grade C—Fairly good overall brightness; not more than materially affected by dullness.

(d) **Broken peas (pea fragments)** mean portions of peas, separated or individual cotyledons, crushed, partial or broken cotyledons, and loose skins, but excluding entire intact peas with skins detached.

(e) **Color.** Color of individual peas is based on the variance of the individual units from the predominant color of the sample unit.

(1) **Peas that vary markedly**—individual pea units with color variance that materially affects the appearance of the sample unit.

(2) **Blond peas**—peas that are white, cream, or yellowish in color.

(f) **Extraneous vegetable material (EVM).** (1) **Flat material** means succulent harmless vegetable material such as leaves and pea pods.

(2) **Cylindrical material** means harmless vegetable material, such as stems or pieces of vine.

(3) **Spherical material** means harmless vegetable material other than the pea plant.

(g) **Flavor and odor.**—(1) **Good flavor and odor** means the product, after cooking, has a good characteristic flavor and odor for the maturity and is free from objectionable flavors and objectionable odors of any kind.

(2) **Fairly good flavor and odor** means that the product, after cooking, may be lacking in good flavor but is free from objectionable flavors and objectionable odors of any kind.

(h) **Sample unit** means the amount of product specified to be used for grading. It may be:

- (1) The entire contents of a container;
- (2) A portion of the content of a container;
- (3) A combination of the contents of two or more containers;
- (4) A portion of unpacked product.

§ 52.3514 Recommended sample unit size.

(a) Size designation—100 peas.

(b) Maturity determination—25 peas; 50 peas; or 100 peas.

(c) Alcohol Insoluble Solids (AIS) determination—250 g (8.8 oz) of peas.

(d) Evaluation of other quality factors—300 g (10.6 oz) of peas.

§ 52.3515 Grades.

(a) **U.S. Grade A** is the quality of frozen peas that:

(1) Meets the following prerequisites in which the peas:

- (i) Are of similar varietal characteristics;
 - (ii) Have a good flavor and odor;
 - (iii) Have a good overall brightness.
- (2) Meets the requirements for tenderness and maturity as classified in Table V and specified in Table VII.

(3) Is within the limits for defects as classified in Table IV and specified in Table VI.

(b) **U.S. Grade B** is the quality of frozen peas that:

(1) Meets the following prerequisites in which the peas:

- (i) Are of similar varietal characteristics;
 - (ii) Have a good flavor and odor;
 - (iii) Have a reasonably good overall brightness.
- (2) Meets the requirements for tenderness and maturity as classified in Table V and specified in Table VII.

(3) Is within the limits for defects as classified in Table IV and specified in Table VI.

(c) **U.S. Grade C** is the quality of frozen peas that:

(1) Meets the following prerequisites in which the peas:

- (i) Are of similar varietal characteristics;
 - (ii) Have a fairly good flavor and odor;
 - (iii) Have a fairly good brightness.
- (2) Meets the requirements for tenderness and maturity as classified in Table V and specified in Table VII.

(3) Is within the limits for defects as classified in Table IV and specified in Table VI.

(4) The alcohol insoluble solids does not exceed 19 percent for sweet green wrinkled skin varieties and 23 percent for smooth skin varieties.

(d) **Substandard** is the quality of frozen peas that fails to meet the requirements for "U.S. Grade C."

(e) **Substandard** is the quality of frozen peas that fails to meet the requirements for "U.S. Grade C."

§ 52.3516 Factors of quality.

The grade of frozen peas is based on meeting the requirements for the following quality factors:

- (a) Prerequisite quality factors:
 - (1) Varietal characteristics;
 - (2) Flavor and odor;
 - (3) Brightness.
- (b) Classified quality factors:
 - (1) Maturity;
 - (2) Individual unit color;
 - (3) Blemished;
 - (4) Extraneous vegetable material (EVM);
 - (5) Broken pea (fragments).

§ 52.3517 Classification of defects.

All defects are classified as minor, major, severe, or critical. Each "X" in Table IV and Table V represents "one (1) defect."

TABLE IV.—CLASSIFICATION OF DEFECTS OTHER THAN MATURITY

Quality factor	Defect	Classification			
		Min.	Maj.	Sev.	Crit.
Color.....	Peas that vary markedly. For Grade A and B only (ea. 3 g). Blond Peas (ea. 3 g).	X			
Blemished...	Slightly (ea. 3 g). Materially (ea. 3 g). Seriously (ea. 3 g).	X			X
Broken peas (fragments).	(Ea. 3 g)	X			

§ 52.3518 Tolerances for defects.

TABLE VI.—ALL CLASSIFIED DEFECTS (EXCEPT MATURITY)

	Grade A				Grade B				Grade C			
	Total ²	Maj	Sev	Crit	Total ²	Maj	Sev	Crit	Total ²	Maj	Sev	Crit
AQL ¹	6.5	2.5	0.65	0.15	10.0	4.0	1.5	0.25	15.0	6.5	2.5	0.65

¹AQL expressed as defects per hundred units.
²Total = Minor + Major + Severe + Critical.

TABLE VII.—CLASSIFIED DEFECTS FOR MATURITY

	Grade A	Grade B	Grade C
AQL ¹	6.5	10.0	12.5

¹AQL expressed as percent defective.

§ 52.3519 Sample size.

The sample size to determine whether the requirements of these standards are met shall be as specified in the sampling plans and procedures in the "Regulations Governing Inspection and Certification of Processed Fruits and Vegetables, Processed Products Thereof, and Certain Other Processed Food Products" (7 CFR 52.1-52.83), for lot grading and on-line grading as applicable.

§ 52.3520 Size requirement criteria.

(a) *Lot grading.* A lot of frozen peas is considered as meeting the requirements for size if the Acceptable Quality Levels (AQL's) in Table III, as applicable for the size, are not exceeded.

(b) *On-line grading.* A portion of production is considered as meeting the requirements for size if the Acceptable Quality Levels (AQL's) in Table III, as

TABLE IV.—CLASSIFICATION OF DEFECTS OTHER THAN MATURITY—Continued

Quality factor	Defect	Classification			
		Min.	Maj.	Sev.	Crit.
Extraneous vegetable material.	Flat material (ea. 0.5 cm ²).		X		
	Cylindrical material (ea. 4 mm).			X	
	Spherical material (ea. piece).				X

NOTE.—Each 3 g increment to the nearest 3 g equals one (1) unit.

TABLE V.—CLASSIFICATION OF DEFECTS FOR MATURITY

Quality factor	Defect	Classification
Grade A maturity.....	Each sinker in 13 percent brine.	Minor X.
Grade B maturity.....	Each sinker in 15 percent brine.	X.
Grade C maturity.....	Each sinker in 16 percent brine.	X.

applicable for the size, are not exceeded.

(c) *Single sample unit.* Each single sample unit submitted for size evaluation will be treated individually and is considered as meeting the requirements for size if the Acceptable Quality Levels (AQL's) in Table III, as applicable for the size, are not exceeded.

§ 52.3521 Quality requirement criteria.

(a) *Lot grading.* A lot of frozen peas is considered as meeting the requirements for quality if:

(1) The requirements specified in § 52.3515 are met;

(2) The Acceptable Quality Levels (AQL's) in Tables VI and VII are not exceeded.

(b) *On-line grading.* A portion of production is considered as meeting the requirements for quality if:

(1) The requirements specified in § 52.3515 are met;

(2) The Acceptable Quality Levels (AQL's) in Tables VI and VII are not exceeded.

(c) *Single sample unit.* Each single sample unit submitted for quality evaluation will be treated individually and is considered as meeting the requirements for quality if:

(1) The requirements specified in § 52.3515 are met;

(2) The Acceptable Quality Levels (AQL's) in Tables VI and VII are not exceeded.

Done at Washington, D.C. on June 7, 1982.
Eddie F. Kimbrell

Deputy Administrator, Commodity Services.

[FR Doc. 82-15025 Filed 6-10-82; 8:45 am]

BILLING CODE 3410-02-M

Food and Nutrition Service

7 CFR Part 235

State Administrative Expense Funds; Limitations on Allocation of Discretionary Funds

AGENCY: Food and Nutrition Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would limit the amount of State Administrative Expense (SAE) funds initially given to State Agencies to administer the child nutrition programs. The Food and Nutrition Service is proposing this rule because some States now receive disproportionately large amounts of SAE funds, when SAE funds are compared to program funds. However, this rule would allow States to justify additional SAE funds in their annual SAE Plans. The Food and Nutrition Services believes that this rule would result in a more equitable and efficient allocation of available SAE funds.

DATE: Comments must be postmarked on or before August 10, 1982.

ADDRESSES: Comments should be mailed to Stanley C. Garnett, Branch Chief, Policy and Program Development Branch, School Programs Division, Food and Nutrition Service, U.S. Department of Agriculture, Alexandria, Va. 22302, or may be delivered to Room 509, 3101 Park Center Drive, Alexandria, Va., during regular business hours (8:30 a.m. to 5:00 p.m., Monday through Friday). Comments received may also be inspected in Room 509 between 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Stanley C. Garnett in writing at the above address or by telephone (703) 756-3620.

SUPPLEMENTARY INFORMATION:

Classification

This proposed rule has been reviewed under Executive Order 12291 and has not been classified major because it does not meet any of the three criteria of the Executive Order. It will not have an annual effect on the economy of \$100 million, will not cause a major increase in costs or prices, and will not have a

significant impact on competition, employment, investment, productivity, innovation, or on the ability of U.S. enterprises to compete.

This proposed rule has also been reviewed with regard to the requirements of Pub. L. 96-354, the Regulatory Flexibility Act. The Administrator of the Food and Nutrition Service has certified that this proposed rule will not have a significant economic impact on a substantial number of small entities.

Any reporting or recordkeeping requirements that may result from this rulemaking effort will be subject to clearance by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980. Once the Department has analyzed the comments on this proposal, we will submit the intended requirements to OMB for that clearance.

Background

The Department allocates State Administrative Expense (SAE) funds to State agencies to help them administer the child nutrition programs. The Department makes two types of SAE allocations: nondiscretionary and discretionary.

Pub. L. 95-627, enacted on November 10, 1978, established two nondiscretionary formulas for allocating SAE funds. The bulk of SAE funds are allocated under these two formulas, which provide school nutrition and child care SAE funds, respectively, based on program funds expended in the second preceding fiscal year. In addition, the legislation specified that the school nutrition SAE allocation to any State shall not be less than the greater of \$100,000 or the amount allocated in the fiscal year ending September 30, 1978. (Pub. L. 97-35 changed this date to September 30, 1981.)

Any funds appropriated for SAE which remain after these nondiscretionary allocations are made, are to be allocated among the States in amounts the Secretary determines necessary for improving program administration. These are the "discretionary" SAE funds and FNS has established, through regulations, several methods for allocating these funds to the States. First, \$30,000 is allocated to each State agency which administers the Child Care Food Program and additional \$30,000 is allocated to each State educational agency or distributing agency which administers the Food Distribution program in schools. Secondly, a minimum of four million dollars is allocated under a four-part formula to assist States in implementing the Assessment, Improvement, and

Monitoring System (AIMS) requirements. Finally, any remaining or residual funds are divided between the Child Care and Food Distribution programs (as determined by the Secretary) and allocated to State agencies and distributing agencies in accordance with formulas prescribed in the regulations.

Because of the minimum support levels and uniform allocation provisions built into the multiple SAE allocation formulas, the actual SAE support level varies widely from State to State if the total amount of SAE allocated to each State agency is compared to program expenditure levels in the allocation base year. The medium and larger sized States receive total SAE allocations that are equivalent to one to two percent of their second preceding fiscal year's program expenditures while the smaller States have SAE support levels ranging from two to over 20 percent. If SAE support levels for individual agencies are computed, the range is even greater. In Fiscal Year 1981, one small State agency received over 75 percent of its second preceding year's program expenditures in SAE funds.

It is generally recognized that administrative costs for smaller agencies are higher proportionately than for larger ones due to the effect of fixed costs, the relative lack of economies of scale, etc. It is for this reason that the law provides for a minimum nondiscretionary school nutrition allocation of \$100,000 to any State. However, the uniform allocations provided by three of the discretionary SAE formulas (Child Care, Food Distribution and AIMS), when added to the minimum school nutrition nondiscretionary allocation create SAE support levels for some States which may be excessive. To remedy this situation, FNS is proposing to modify its procedures for allocating discretionary SAE funds to achieve a more equitable allocation of funds by considering discretionary and nondiscretionary allocations together.

Child Care Food program

Each State agency that administers the Child Care Food program is given a nondiscretionary allocation of SAE funds according to a formula based on percentages of program funds expended within the State during the second preceding fiscal year: Twenty percent of the first \$50,000; 10 percent of the next \$100,000; 5 percent of the next \$250,000; and two and one-half percent of any remaining funds. In addition, each State Child Care agency is given discretionary allocations as follows: \$30,000 plus a proportionate amount of any child care

residual funds based on Child Care SAE funds already allocated.

This rule would limit the amount of child care discretionary funds initially allocated to the State agency. If the amount of child care nondiscretionary funds allocated to a State agency is equal to or greater than ten percent of program funds expended in the second preceding fiscal year, that State would not be allocated any discretionary funds. If the amount of nondiscretionary funds is less than ten percent of program funds, the Department would allocate discretionary funds in an amount equal to the lesser of the full unadjusted discretionary allocations or the difference between the amount of nondiscretionary funds and ten percent of program funds.

For example, assuming that the base year expenditure level was \$500,000, the formula allocation of nondiscretionary funds would be \$35,000 or 7 percent. This State agency would thus be eligible for 3 percent of its base year expenditures, or \$15,000, in discretionary allocations to meet the limit of 10 percent.

School Nutrition Programs

Each State agency that administers the school nutrition programs is allocated nondiscretionary SAE funds equal to one percent of program funds expended within the State during the second preceding fiscal year; however, a State agency cannot by law be allocated less than the greater of: \$100,000 or the amount of SAE funds allocated to the State in the fiscal year ending September 30, 1981. In addition each State agency administering the school nutrition programs is allocated discretionary funds for the Assessment, Improvement, and Monitoring System (AIMS) by regulatory formula and if it also administers the Food Distribution Program, is allocated \$30,000 in discretionary funds plus a proportionate amount of any food distribution residual funds based on the total value of USDA donated food for schools and child care institutions.

This rule would reduce the amount of discretionary funds initially allocated to State agencies whose nondiscretionary allocations were greater than one percent of their program funds.

For example: State "A" with a base year school nutrition program expenditure level of \$7,500,000 earns one percent or \$77,000 in nondiscretionary funds under the basic school nutrition SAE formula but is allocated its FY 1981 level, for example \$100,000, due to the legislatively mandated minimum funding provision. Assuming that the State

agency's computed discretionary allocations for AIMS and food distribution were an additional \$70,000, this rule would reduce the actual amount of discretionary funds allocated by \$25,000 (\$100,000-\$75,000) so that the State agency would receive \$45,000 in discretionary funds rather than \$70,000.

SAE Plan

Due to special circumstances such as excessive travel distances or large numbers of small School Food Authorities, some State agencies may legitimately justify a higher SAE support level than the level that would be allowed under this rule. To provide FNS with the flexibility to deal with such special circumstances, this rule would allow State agencies to submit justification for additional discretionary SAE funds (up to the unrestricted allocation formula amounts) as part of or amendments to their annual SAE Plan. FNS Regional Offices would be responsible for approving or disapproving these requests.

List of Subjects in 7 CFR Part 235

Food Assistance Programs, National School Lunch Program, School Breakfast Program, Special Milk Program, Grant administration, Intergovernmental relations, Reporting and recordkeeping requirements, Administrative practice and procedure.

PART 235—STATE ADMINISTRATIVE EXPENSE FUNDS

Accordingly, Part 235 is proposed to be amended as follows:

1. Under § 235.4 paragraph (a) and the introductory text of paragraph (b) are redesignated (a)(1) and (a)(2) respectively; redesignated paragraph (a)(2) and paragraphs (b)(1), (b)(2), (b)(3) and (b)(4) are revised for clarity and consistency; a new paragraph (b)(5) is added; in paragraph (c), the first sentence is amended by revising the words "paragraphs (a), (b), (b)(1), (b)(2), (b)(3), (b)(4) and (f)" to read "paragraphs (a)(1), (a)(2), (b)(1), (b)(2), (b)(3), (b)(4), (b)(5) and (f)"; in paragraph (h), the first sentence is amended by revising the words "paragraphs (a), (b), and (b)(1)" to read "paragraphs (a)(1), (a)(2) and (b)(1)"; and headings are added to all paragraphs of the section to read as follows:

§ 235.4 Allocation of funds to States.

(a) Nondiscretionary funds.

(1) School Nutrition Programs. * * *

(2) *Child Care Food Program.* Each fiscal year, for each State agency that administers the Child Care Food Program, FNS shall allocate nondiscretionary State Administrative

Expense (SAE) funds based on the amount of funds expended within the State under the Child Care Food Program (7 CFR Part 226) during the second preceding fiscal year according to the following formula: 20 percent of the first \$50,000 of Program funds expended; 10 percent of the next \$100,000; five percent of the next \$250,000; and two and one-half percent of any remaining funds. FNS may adjust the amount of this allocation to reflect changes in the size of the Child Care Food Program in a State.

(b) *Discretionary funds—(1) Child Care Food Program.* Except as provided under paragraph (b)(5)(iii) of this section, each fiscal year FNS shall allocate \$30,000 in discretionary State Administrative Expense (SAE) funds for each State agency that administers the Child Care Food Program (7 CFR Part 226).

(2) *Food Distribution.* Except as provided under paragraph (b)(5)(ii) of this section, each fiscal year FNS shall allocate \$30,000 in discretionary State Administrative Expense (SAE) funds for each State agency that administers the Food Distribution Program (7 CFR Part 250) in schools as defined in § 235.2(o)(1) of this Part which participate in the National School Lunch Program (7 CFR Part 210). Therefore, a State agency that administers the Food Distribution Program (7 CFR Part 250) only in residential child care institutions (schools as defined in § 235.2(o)(2)) will not be allocated these discretionary SAE funds.

(3) *AIMS.* (i) Except as provided under paragraph (b)(5)(ii) of this section, each fiscal year FNS shall allocate funds from the discretionary State Administrative Expense (SAE) funds designated by FNS for the Assessment, Improvement and Monitoring System (AIMS) according to the following four part formula for each State agency that administers the school nutrition programs:

(A) One equal share of forty (40) percent of the AIMS funds.

(B) The ratio of the number of School Food Authorities participating in the National School Lunch Program within the State to the number of those School Food Authorities in all States times twenty (20) percent of the AIMS funds.

(C) The ratio of the number of free and reduced price meals served within the State during the second preceding fiscal year to the number of free and reduced price meals served in all States in the second preceding fiscal year times twenty (20) percent of the AIMS funds.

(D) In States with at least two School Food Authorities having enrollments of 40,000 or more, equal shares of twenty (20) percent of the AIMS funds for each

such School Food Authority. In States with fewer than two School Food Authorities having enrollments of 40,000 or more, an equal share for the two largest School Food Authorities having enrollments of more than 2,000. In States with only one School Food Authority, regardless of size, one equal share.

(ii) Each fiscal year the amount of AIMS SAE funds shall be equal to or greater than the amount of SAE funds designated by FNS for program management improvements for the fiscal year ending September 30, 1980.

(4) *Residual for Food Distribution and Child Care.—(i) General.* Funds that remain after the allocations required in paragraphs (a)(2), (b)(1), (b)(2) and (b)(3) of this section, and after any payments provided under paragraph (f) and (h) of this section, shall be available, as determined by the Secretary, for allocation for those State agencies which are allocated funds under paragraph (b)(2) of this section for food distribution purposes and for State agencies which administer the Child Care Food Program (7 CFR Part 226).

(ii) *Child Care Food Program.* Except as provided under paragraph (b)(5)(iii) of this section, for any fiscal year the amount of funds allocated for each State Child Care agency shall bear the same ratio to the total amount of funds allocated for all State Child Care agencies under this paragraph as the amount of nondiscretionary funds allocated to the State Child Care agency under paragraph (a)(2) of this section bears to the amount allocated to all State Child Care agencies under that paragraph.

(iii) *Food Distribution.* Except as provided under paragraph (b)(5)(ii) of this section, for any fiscal year the amount of funds allocated for each eligible State agency shall bear the same ratio to the total amount of funds allocated for all eligible State agencies under this paragraph as the value of donated foods delivered to the State during the second preceding fiscal year for schools and institutions participating in National School Lunch Program (7 CFR Part 210) and Child Care Food Program (7 CFR Part 226) bears to the value of donated foods delivered to all States during the second preceding fiscal year for schools and institutions participating in these programs.

(5) *Reduction in discretionary funds.—(i) General.* As provided in paragraphs (b)(5)(ii) and (b)(5)(iii) of this section, FNS may withhold funds from a State agency's allocation of discretionary funds calculated under paragraphs (b)(1), (b)(2), (b)(3) and (b)(4) of this section. If FNS withholds funds, it

will hold them until the first reallocation of SAE funds under § 235.4(e) of this section. Any time before the first reallocation, a State agency which has had funds withheld may submit justification for, together with a request for restoration of, all or a portion of the funds as part of, or as an amendment to, its annual SAE Plan under § 235.4(d) of this section. Unless FNS receives adequate justification, FNS will make the unjustified funds available to other State agencies during the first reallocation. (ii) *School Nutrition Programs*. Each fiscal year, if one percent of funds expended during the second preceding fiscal year by the State agency under section 4 and 11 of the National School Lunch Act, as amended, and sections 3 and 4 of the Child Nutrition Act of 1966, as amended, is less than the amount of nondiscretionary funds allocated to the State agency under paragraph (a)(1) of this section, FNS shall withhold the difference from discretionary allocations for that State agency under paragraphs (b)(2), (b)(3), and (b)(4)(iii) of this section. (iii) *Child Care Food Program*. Each fiscal year, if the amount of nondiscretionary funds allocated for a State agency under paragraph (a)(2) of this section is equal to or greater than ten percent of the funds expended within the State for the Child Care Food Program during the second preceding fiscal year, FNS shall withhold all discretionary allocations for that State agency under paragraphs (b)(1) and (b)(4)(ii) of this section. If the amount of nondiscretionary funds is less than ten percent of the funds expended within the State for the Child Care Food Program during the second preceding fiscal year, but the total of nondiscretionary and discretionary Child Care allocations exceeds ten percent of those funds, FNS shall withhold all discretionary funds allocated in excess of the ten percent amount.

(c) *Transfer of funds among programs*. Funds allocated under paragraphs (a)(1), (a)(2), (b)(1), (b)(2), (b)(3), (b)(4), and (b)(5) * * *

(d) *Plan*. * * *

(e) *FNS reallocation of funds*. * * *

(f) *Adjustment for State assuming administration of program*. * * *

(g) *Adjustment for State terminating administration of program*. * * *

(h) *Funds for FNS administration of programs*. FNS shall have available to it the applicable amounts provided for in paragraphs (a)(1), (a)(2) * * *

§ 235.6 [Amended]

2. In § 235.6, the references to paragraphs (a) and (b) in the first

sentence of paragraph (c) are changed to (a)(1) and (a)(2) respectively.

§ 235.11 [Amended]

3. In § 235.11, the references to § 235.4 (a) in paragraphs (b)(2) and (b)(3) are changed to § 235.4(a)(1).

(Sec. 7(a), Pub. L. 95-627, 92 Stat. 3621 (42 U.S.C. 1776))

Signed on June 4, 1982.

Samuel J. Cornelius,
Administrator, Food and Nutrition Service.

[FR Doc. 82-15822 Filed 6-10-82; 8:45 am]

BILLING CODE 3410-30-M

Rural Electrification Administration

7 CFR Part 1701

Proposed Revision of REA Form 805

AGENCY: Rural Electrification Administration, USDA.

ACTION: Proposed rule.

SUMMARY: The Rural Electrification Administration (REA) proposes to amend Appendix A—REA Bulletins by adding a new REA Bulletin 50-2, Electric Transmission Specifications and Drawings for 115 kV through 230 kV Structures (T-805B). This bulletin sets forth revised drawings to include approximate loading for structures and assemblies, several new 138 kV single structures, numerous new guying assemblies categorized in light, medium, and heavy duty classes. The specifications section has also been expanded to reflect current practices. A separate bulletin will be issued at a later date to cover 34.5 kV through 69 kV transmission structures.

DATE: Public comments must be received by REA no later than August 10, 1982.

ADDRESS: Submit written comments to Archie Cain, Director, Engineering Standards Division, Rural Electrification Administration, Room 1270, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Mr. Lee Belfore, Transmission Standards Branch, Rural Electrification Administration, Room 1271, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, telephone (202) 382-9086. The Draft Impact Analysis describing the options considered in developing this proposed rule and the impact of implementing each option is available on request from the above office.

SUPPLEMENTARY INFORMATION: Pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 et seq.), REA proposes to amend 7 CFR Part 1701,

Appendix A—REA Bulletins, by adding new REA Bulletin 50-2, Electric Transmission Specifications and Drawings for 115 kV through 230 kV Structures (T-805B). This proposed action has been reviewed in accordance with Executive Order 12291, Federal Regulation. The action will not (1) have an annual effect on the economy of \$100 million or more; (2) result in a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies; or (3) result in significant adverse effects on competition, employment, investment or productivity and therefore has been determined to be "not major". This action does not fall within the scope of the Regulatory Flexibility Act and is not subject to OMB Circular A-95 review requirements. This program is listed in the Catalog of Federal Domestic Assistance as 10.850—Rural Electrification Loans and Loan Guarantees.

An Advance Notice of Proposed Rulemaking was published in the *Federal Register* on June 22, 1980, Volume 45, Number 142, page 48909. However, no public comments were received in response to the notice.

This proposed action will establish one in a series of new REA Bulletins covering specifications and drawings for electric systems and structures. This particular proposal will update REA's existing specifications and drawings for 115 kV through 230 kv transmission structures. It will also provide space on drawings to add computer and/or inventory control numbers. It will include new structures and assemblies required to meet today's needs and should significantly improve REA borrowers' basis of selection. A new type drawing, transmission detail assembly, has been developed to insure proper field assembly of units. This proposed bulletin will replace REA Form 805, Electric Transmission Specifications and Drawings, 115 kV through 230 kV.

In view of the need to update REA's existing electric transmission specifications and drawings it is hereby proposed to issue a new REA Bulletin 50-2, Electric Transmission Specifications and Drawings for 115 kV through 230 kV Structures (T-805B). A copy of the proposed publication is available upon request from the address indicated above. All written submissions made pursuant to this action will be made available for public inspection during regular business hours, above address.

List of Subjects in 7 CFR Part 1701

Administrative practice and procedure, Electric utilities, Loan programs—energy.

Dated June 2, 1982.

Harold V. Hunter,
Administrator.

[FR Doc. 82-15855 Filed 6-10-82; 8:45 am]

BILLING CODE 3410-15-M

FEDERAL TRADE COMMISSION**16 CFR Part 436****Franchise Disclosure Rule; Information Collection Requirement**

AGENCY: Federal Trade Commission.

ACTION: Application to OMB under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) for clearance of a pilot study of the impact of the Federal Trade Commission's Franchise Rule.

SUMMARY: This application seeks clearance to conduct a pilot study to determine the feasibility of a full-scale effort to gather retrospective data on the impact of the FTC's trade regulation rule "Disclosure Requirements and Prohibitions Concerning Franchising and Business Opportunity Ventures," 16 CFR Part 436 (1982), promulgated on December 21, 1978, and which became effective on October 21, 1979. A small sample of franchisees and of individuals who investigated a franchise and decided against the investment will be surveyed.

DATE: Comments on this application must be submitted on or before July 12, 1982.

ADDRESS: Send comments to Ms. Nell Minow, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3228, Washington, D.C. 20503. Copies of this application may be obtained from: Public Reference Branch, Room 130, Federal Trade Commission, Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: Thomas J. Maronick, Office of Impact Evaluation, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580, (202) 724-1877.

By the Commission.

Carol M. Thomas,
Secretary.

[FR Doc. 82-15894 Filed 6-10-82; 8:45 am]

BILLING CODE 6750-01-M

SECURITIES AND EXCHANGE COMMISSION**17 CFR PARTS 201, 230, 240, 250, 260, 270, and 275**

[Release Nos. 33-6407; 34-18794; 35-22527; 39-729; IC-12465; IA-807; S7-934]

Elimination of Legal Size Paper

AGENCY: The Securities and Exchange Commission.

ACTION: Proposed amendments to rules.

SUMMARY: The Securities and Exchange Commission is proposing to amend its rules to require the use of 8½ x 11 inch paper for all statements, applications, reports, documents and amendments thereto filed with the Commission. The Commission's filing system was designed to accommodate both letter size (8½ x 11 inches) and legal size (8½ x 14 inches) papers. After the Commission adopted a micrographics filing program, however, it became apparent that attempting to accommodate both size papers increased the cost of microfiche because, in most instances, it is not possible to get the maximum number of images on each microfiche. Adopting a uniform size for all documents filed with the Commission will achieve maximum cost-efficiency in the Commission's micrographics filing program.

DATE: Comments must be received by June 18, 1982.

ADDRESS: All comments should be submitted in triplicate and addressed to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. All comments should refer to File No. S7-934. Comments will be available for public inspection at the Commission's Public Reference Room, 1100 L Street, NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Douglas J. Scheidt, Office of the General Counsel, Securities and Exchange Commission, 500 North Capitol St., Washington, D.C. 20549. Telephone (202) 272-2454.

SUPPLEMENTARY INFORMATION: The Commission expects that in most instances requiring registrants and others to use 8½ x 11 inch paper for all filings with the Commission will not create hardship. The Commission recognizes, however, that certain documents filed as exhibits with the Commission, such as material contracts and leases, as well as maps, plats and geological surveys, may commonly be prepared on larger paper for purposes other than for filing with the Commission. In some instances, reducing such documents to the required

size would be costly or would result in an illegible document. Under such circumstances in which it is not practicable to reduce documents to 8½ x 11 inch paper, the Commission would permit filings on larger paper.

At the request of the Archivist of the United States and upon recommendation of its Court Administrative Committee, the Judicial Conference of the United States has adopted the 8½ x 11 inch paper size standard for use throughout the federal judiciary and directed the elimination of the use of legal size paper measuring 8½ x 14 inches, effective January 1, 1983 (46 FR 60864, Dec. 14, 1981). In addition, many state courts have adopted the letter size requirement.

In light of the above, the Commission is proposing to amend its rules relating to filing requirements to specify the use of 8½ x 11 inch paper for all applications, statements, reports, documents, and amendments thereto filed with the Commission.

The Commission finds, in accordance with the Administrative Procedure Act ("APA"), 5 U.S.C. 553(b)(A), and 5 U.S.C. 553(d), that these amendments relate solely to agency organization, procedure or practice and do not relate to substantive rules. Accordingly, notice and opportunity for public comment pursuant to the APA is not required. In order to assist the Commission to determine whether to approve the proposed amendments, however, interested persons are invited to submit written data, views and arguments concerning the amendments on or before June 18, 1982.

Regulatory Flexibility Act

No regulatory flexibility analysis (or certification that one is not required) is necessary because the proposed rules are procedural, and thus not within the definition of "rule" for purposes of Chapter 6, Title 5, U.S.C.

List of Subjects**17 CFR Part 201**

Administrative practice and procedure, Investigations, Securities.

17 CFR Parts 230, 240 and 260

Reporting requirements, Securities.

17 CFR Part 250

Accounting, Reporting requirements, Securities, Utilities.

17 CFR Part 270

Investment companies, Reporting requirements, Securities.

17 CFR Part 275

Investment advisers, Reporting requirements, Securities.

Text of Proposed Amendments

In consideration of the foregoing, the Commission hereby proposes to amend Parts 201, 230, 240, 250, 260, 270 and 275 of Chapter II, Title 17, Code of Federal Regulations, as follows:

PART 201—RULES OF PRACTICE

The authority citation for Part 201 reads as follows:

Authority: Secs. 19, 23, 48 Stat. 85, as amended, 901, as amended, sec. 20, 49, Stat. 833, sec. 319, 53 Stat. 1173, secs. 38, 211, 54 Stat. 841, 855 (15 U.S.C. 77s, 78w, 79f, 77sss, 80a-37, 80b-11).

1. Paragraph (e) of § 201.22 is proposed to be revised as follows:

§ 201.22 Filings; formalities; computation of time.

(e) *Paper, spacing, type.* All paper filed under this part shall be typewritten, mimeographed, lithographed, printed or prepared by any similar process which, in the opinion of the Commission, produces copies suitable for microfilming. All papers shall be plainly legible and shall be on one grade of good unglazed white paper measuring 8½ x 11 inches. To the extent that the reduction of larger documents, which were prepared for purposes other than for filing with the Commission, would render them illegible, such documents may be filed on paper larger than 8½ x 11 inches in size. All papers should have left-hand margins at least 1½ inches wide, shall be bound on the lefthand side, and shall be double-spaced, except that quotations shall be single-spaced and indented. If printed, they shall be in either 10- or 12-point type with double-leaded text and single-leaded quotations.

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

The authority citation for Part 230 reads as follows:

Authority: Secs. 8, 8, 10, 19, 48 Stat. 78, 79, 81, as amended, 85, as amended (15 U.S.C. 77f, 77h, 77s).

2. Paragraph (a) of § 230.403 is proposed to be revised as follows:

§ 230.403 Requirements as to paper, printing, language and pagination.

(a) Registration statements, applications and reports shall be filed on good quality, unglazed, white paper 8½ x 11 inches in size, insofar as

practicable, although prospectuses may be on smaller paper if the registrant so desires. To the extent that the reduction of larger documents, which were prepared for purposes other than for filing with the Commission, would render them illegible, such documents may be filed on paper larger than 8½ x 11 inches in size.

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

The authority citation for Part 240 reads as follows:

Authority: Secs. 4, 16, 19, 24, 48 Stat. 77, 896, 85, as amended, 901 (15 U.S.C. 77d, 78p, 77s, 78x).

3. Paragraphs (a) and (b) of § 240.12b-12 are proposed to be revised as follows:

§ 240.12b-12 Requirements as to paper, printing and language.

(a) Statements and reports shall be filed on good quality, unglazed white paper, 8½ x 11 inches in size, insofar as practicable. To the extent that the reduction of larger documents, which were prepared for purposes other than for filing with the Commission, would render them illegible, such documents may be filed on paper larger than 8½ x 11 inches in size.

(b) The statement or report and, insofar as practicable, all papers and documents filed as a part thereof, shall be printed, lithographed, mimeographed, or typewritten. However, the statement or report or any portion thereof may be prepared by any similar process which, in the opinion of the Commission, produces copies suitable for a permanent record and microfilming. Irrespective of the process used, all copies of any such material shall be clear, easily readable and suitable for repeated photocopying. Debits in credit categories and credits in debit categories shall be designated so as to be clearly distinguishable as such on photocopies.

PART 250—GENERAL RULES AND REGULATIONS, PUBLIC UTILITY HOLDING COMPANY ACT OF 1935

The authority citation for Part 250 reads as follows:

Authority: Sec. 19, 48 Stat. 85, as amended, secs. 13, 15, 23, 48 Stat. 894, 895, 901, as amended, sec. 15, 49 Stat. 828, secs. 305, 307, 314, 319, 53 Stat. 1154, 1156, 1167, 1173, as amended, secs. 38, 39, 54 Stat. 841 (15 U.S.C. 77s, 77m, 78o, 78w, 79o, 77eee, 77ggg, 77nnn, 77sss, 80a-37, 80a-38).

4. Paragraph (d) of § 250.22 is proposed to be revised as follows:

§ 250.22 Applications and declarations.

(d) *Formal specifications.* All applications, declarations, certificates and statements, and any amendments thereto, shall be filed in triplicate. One copy shall be signed but the other two copies may have facsimile or typed signatures. Applications and declarations, amendments thereto, and where practicable, all papers filed as a part thereof shall be on good quality, unglazed, white paper, 8½ x 11 inches in size. To the extent that the reduction of larger documents, which were prepared for purposes other than for filing with the Commission, would render them illegible, such documents may be filed on paper larger than 8½ x 11 inches in size. All documents filed shall be bound on the left side in such manner as to leave the reading matter legible, and shall be printed, lithographed, mimeographed, typewritten, or prepared by any process which, in the opinion of the Commission, produces copies suitable for permanent records and microfilming. Irrespective of the process used, all copies of such material shall be clear, easily readable and suitable for repeated photocopying. Debits and credits in financial statements shall be clearly distinguishable as such on photocopies.

PART 260—GENERAL RULES AND REGULATIONS, TRUST INDENTURE ACT OF 1939

The authority citation for Part 260 reads as follows:

Authority: Secs. 305, 307, 314, 319, 53 Stat. 1154, 1156, 1167, 1173 (15 U.S.C. 77eee, 77ggg, 77nnn, 77sss).

5. Section 260.7a-17 is proposed to be revised as follows:

§ 260.7a-17 Quality, color and size of paper.

The application, statement or report, including all amendments and, where practicable, all papers and documents filed as a part thereof, shall be on good quality, unglazed, white paper, 8½ x 11 inches in size. To the extent that the reduction of larger documents, which were prepared for purposes other than for filing with the Commission, would render them illegible, such documents may be filed on paper larger than 8½ x 11 inches in size.

6. Paragraph (a) of § 260.7a-18 is proposed to be revised as follows:

§ 260.7a-18 Legibility.

(a) The application, statement or report, including all amendments and,

where practicable, all papers and documents filed as a part thereof, shall be clear, easily readable and shall be typewritten, mimeographed, printed or prepared by any similar process which, in the opinion of the Commission, produces copies suitable for repeated photocopying and microfilming.

PART 270—RULES AND REGULATIONS, INVESTMENT COMPANY ACT OF 1940

The authority citation for Part 270 reads as follows:

Authority: Secs. 38, 40, 54 Stat. 841, 842 (15 U.S.C. 80a-37, 80c-89).

7. Paragraph (b) of § 270.0-2 is proposed to be revised as follows:

§ 270.0-2 General requirements of papers and applications.

(b) *Formal specifications respecting applications.* Every application for an order under any provision of the Act, for which a form with instructions is not specifically prescribed, and every amendment to such application shall be filed in quintuplicate. One copy shall be signed by the applicant but the other four copies may have facsimile or typed signatures. Such applications should be on paper 8½ x 11 inches in size. To the extent that the reduction of larger documents, which were prepared for purposes other than for filing with the Commission, would render them illegible, such documents may be filed on paper larger than 8½ x 11 inches in size. The left margin should be at least 1½ inches wide and, if the application is bound, it should be bound on the left side. The application must be typed, printed, copied or prepared by any process which, in the opinion of the Commission, produces copies suitable for microfilming. All typewritten or printed matter (including deficits in financial statements) should be set forth in black so as to permit photocopying.

8. Paragraphs (a) and (b) of § 270.8b-12 are proposed to be revised as follows:

§ 270.8b-12 Requirements as to paper, printing and language.

(a) Registration statements and reports shall be filed on good quality, unglazed, white paper, 8½ x 11 inches in size, insofar as practicable. To the extent that the reduction of larger documents, which were prepared for purposes other than for filing with the Commission, would render them illegible, such documents may be filed on paper larger than 8½ x 11 inches in size.

(b) The registration statement or report and, insofar as practicable, all papers and documents filed as a part thereof, shall be printed, lithographed, mimeographed, or typewritten. However, the registration statement or report or any portion thereof may be prepared by any similar process which, in the opinion of the Commission, produces copies suitable for a permanent record and microfilming. Irrespective of the process used, all copies of any such material shall be clear, easily readable and suitable for repeated photocopying. Debits in credit categories and credits in debit categories shall be designated so as to be clearly distinguishable as such on photocopies.

PART 275—RULES AND REGULATIONS, INVESTMENT ADVISERS ACT OF 1940

The authority citation for part 275 reads as follows:

Authority: Secs. 203, 204, 211, 54 Stat. 850, as amended, 852, as amended, 855, as amended (15 U.S.C. 80b-3, 80b-4, 80b-11).

9. Paragraph (b) of § 275.0-4 is proposed to be revised as follows:

§ 275.0-4 General requirements of papers and applications.

(b) *Formal specifications respecting applications.* Every application for an order under any provision of the Act, for which a form with instructions is not specifically prescribed, and every amendment to such application shall be filed in quintuplicate. One copy shall be signed by the applicant, but the other four copies may have facsimile or typed signatures. Such applications shall be on paper 8½ x 11 inches in size. To the extent that the reduction of larger documents, which were prepared for purposes other than filing with the Commission, would render them illegible, those documents may be filed on paper larger than 8½ x 11 inches in size. The left margin should be at least 1½ inches wide and, if the application is bound, it should be bound on the left side. All typewritten or printed matter (including deficits in financial statements) should be set forth in black so as to permit photocopying and microfilming.

By the Commission,
George A. Fitzsimmons,
Secretary.

June 7, 1982.

[FR Doc. 82-15887 Filed 6-10-82; 8:45 am]
BILLING CODE 8010-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 271

New Mexico; High-Cost Gas Produced From Tight Formations; Correction

June 7, 1982.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking; correction.

SUMMARY: This document corrects a Notice of Proposed Rulemaking in Docket No. RM79-76-109 (New Mexico-12) that appeared in the Federal Register on April 5, 1982 (47 FR 14492). This action deletes certain sections from the description of the area recommended for tight formation designation as it appeared in § 271.703(d)(105)(i).

FOR FURTHER INFORMATION CONTACT:

Leslie J. Lawner, Office of General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426 (202) 357-8511.

SUPPLEMENTARY INFORMATION:

PART 271—CEILING PRICES

The following correction is made in FR Doc. 82-9023, appearing on page 14493 of the issue of April 5, 1982:

§ 271.703 [Corrected]

§ 271.703(d)(105)(i) is corrected to read as follows:

* * * * *
(d) * * *
(105) * * *

(i) *Delineation of formation.* The Mesaverde Formation is found in San Juan County, New Mexico, Township 32 North, Range 8 West, NMPM, Sections 30 and 31; Township 32 North, Range 9 West, NMPM, Sections 25, 26, 27, 34 and 35.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-15787 Filed 6-10-82; 8:45 am]
BILLING CODE 6717-01-M

18 CFR Part 271

[Docket No. RM 79-76-095 (Texas-20)]

Texas; High-Cost Gas Produced from Tight Formations

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Proposed rule.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This Notice of Proposed Rulemaking by the Director of the Office of Pipeline and Producer Regulation contains the amended recommendation of the Railroad Commission of Texas that portions of the Vicksburg Formation in Texas be designated as a tight formation under § 271.703(d).

DATE: Comments on the proposed rule are due on June 14, 1982. Public Hearing: No public hearing is scheduled in this docket as yet. Written requests for a public hearing are due on June 14, 1982.

ADDRESS: Comments and requests for hearing must be filed with the Office of the Secretary, 825 North Capitol Street, NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357-8511 or Walter W. Lawson, (202) 357-8556.

SUPPLEMENTARY INFORMATION:

Issued: June 4, 1982.

I. Background

On January 8, 1982, the Railroad Commission of Texas (Texas) submitted to the Commission a recommendation, in accordance with § 271.703 of the Commission's regulations (45 FR 56034, August 22, 1980), that the Monte Christo Vicksburg 9000' Formation located in Hidalgo County, Texas, be designated as a tight formation. Pursuant to § 271.703(c)(4), a Notice of Proposed Rulemaking by the Director of the Office of Pipeline and Producer Regulation (OPPR) was issued on February 12, 1982 (47 FR 7451, February 19, 1982) to determine whether Texas' recommendation that the Monte Christo Vicksburg 9000' Formation be designated as a tight formation should be adopted. On June 2, 1982, Texas amended its recommendation for the Monte Christo Vicksburg 9000' Formation and deleted certain acreage. This Notice of Proposed Rulemaking is hereby issued to give notice of the amended recommendation by Texas and to determine if the recommendation as

amended should be adopted. Texas' original recommendation and June 2, 1982 revision and supporting data are on file with the Commission and are available for public inspection.

II. Description of Recommendation

As originally submitted to the Commission, the recommended area of the Monte Christo Vicksburg 9000' Formation, found in Hidalgo County, Texas (Railroad Commission District 4), consisted of the following surveys: Jackson Subdivision of the San Salvador Del Tule Grant, Juan Jose Balli Survey A-290; Section 203, Tex.-Mex. Ry. Co. Survey A-124; Section 206, Tex.-Mex. Ry. Co. Survey A-637; Section 207, Tex.-Mex. Ry. Co. Survey A-126; Section 210, W. T. Bomar Survey A-624; Section 211, Tex.-Mex. Ry. Co. Survey A-128; Section 214, Macedonio Vela, Jr. Survey A-623. By its submittal on June 2, 1982, Texas deleted from the recommendation an area in the form of a rectangle, two sides of which extend due north and south, the north line being 750' north of and the west line being 750' west of the Shell Oil Co. Bright & Schiff Hamman No. 1 Well, and the south side being 750' south of and the east line being 750' east of the Shell Oil Co. Bright & Hamman No. 2 Well.

Accordingly, pursuant to the authority delegated to the Director of the Office of Pipeline and Producer Regulation by Commission Order No. 97, issued in Docket No. RM80-68 (45 FR 53456, August 12, 1980), notice is hereby given of the proposal submitted by Texas that the Monte Christo Vicksburg 9000' Formation, as described and delineated in Texas' recommendation, as amended, filed with the Commission, be designated as a tight formation pursuant to § 271.703.

III. Public Comments Procedures

Texas requested that the Commission shorten the comment period in this proceeding to permit an expeditious review of the amended formation recommendation. The Director shortens the comment period, inasmuch as this is the second notice of proposed rulemaking issued in this docket, and no major changes have been made. Interested persons may comment on this proposed rulemaking by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before June 14, 1982. Each person submitting a comment should indicate that the comment is being submitted in Docket No. RM79-76-095 (Texas-20), and should give reasons including supporting data for any

recommendations. Comments should include the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Written comments will be available for public inspection at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C., during business hours.

Any person wishing to present testimony, views, data, or otherwise participate at a public hearing should notify the Commission in writing that they wish to make an oral presentation and therefore request a public hearing. Such request shall specify the amount of time requested at the hearing. Requests should be filed with the Secretary of the Commission no later than June 14, 1982.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

(Natural Gas Policy Act of 1978, 15 U.S.C. 3301-3432)

Accordingly, the Commission proposes to amend the regulations in Part 271, Subchapter H, Chapter I, Title 18, Code of Federal Regulations, as set forth below, in the event Texas' recommendation, as amended, is adopted.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

PART 271—CEILING PRICES

Section 271.703(d) is amended by adding new subparagraph (93) to read as follows:

§ 271.703 Tight formations.

(d) *Designated tight formations.* * * * (65) through (92) [RESERVED] (93) *Monte Christo Vicksburg 9000' Formation in Texas.* RM79076-095 (Texas-20).

(i) *Delineation of formation.* The Monte Christo Vicksburg 9000' Formation is located in a portion of Hidalgo County, Texas and is encountered in portions of the following surveys: Jackson Subdivision of the San Salvadore Del Tule Grant, Juan Jose Balli Survey A-290; Section 203, Tex.-Mex. Ry. Co. Survey A-124; Section 206, Tex.-Mex. Ry. Co. Survey A-637; Section 207, Tex.-Mex. Ry. Co. Survey A-126; Section 210, W. T. Bomar Survey A-624; Section 211, Tex.-Mex. Ry. Co. Survey A-128; Section 214, Macedonio Vela, Jr. Survey A-623. Excluded from the

designation is a rectangular area in the Juan Jose Balli Suvey A-290, two sides of which extend due north and south, the north line being 750' north of and the west line being 750' west of the Shell Oil Co. Bright & Schiff Hamman No. 1 Well, and the south side being 750' south of and the east line being 750' east of the Shell Oil Co. Bright & Hamman No. 2 Well.

(ii) *Depth.* The Monte Christo Vicksburg 9000' Formation ranges from a depth of approximately 9000 feet to approximately 9700 feet, with a gross average thickness of approximately 650 feet. The bottom of the formation may extend as deep as 10,400 feet in the undeveloped areas.

[FR Doc. 82-15788 Filed 6-10-82; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 404

[Regulations No. 4]

Federal Old-Age, Survivors, and Disability Insurance Benefits; Limitations on Benefit Payments to Prisoners; Restrictions on Disability Determinations for Felony-Related and Prison-Related Impairments

AGENCY: Social Security Administration, HHS.

ACTION: Proposed rules.

SUMMARY: These proposed regulations, which are based on Pub. L. 96-473, place certain restrictions on the payment of benefits based on disability and student status to persons who have been convicted of a felony and are imprisoned and restrict the use of certain impairments in determining disability. These proposed rules specify the conditions under which benefits will not be paid to these individuals and how a finding of disability may be affected when an impairment, or the aggravation of a preexisting impairment, arises during the commission of a felony or imprisonment. Before the enactment of Pub. L. 96-473, there were no restrictions upon the payment of benefits or the making of disability determinations for these persons.

DATES: We will consider your comments if we receive them no later than July 12, 1982.

ADDRESSES: Send your written comments to the Commissioner of Social Security, Department of Health and Human Services, P.O. Box 1585, Baltimore, Maryland 21203, or deliver

them to the Office of Regulations, Social Security Administration, 3-A-3 Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235 between 8:00 a.m. and 4:30 p.m., on regular business days. Comments received may be inspected during these same hours by making arrangements with the contact person shown below.

FOR FURTHER INFORMATION CONTACT: W. Ziegler, Legal Assistant, Office of Regulations, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235, (301) 594-7415.

SUPPLEMENTARY INFORMATION:

General Background

Section 5 of Pub. L. 96-473 amends sections 202, 216, and 223 of the Social Security Act (the Act) by placing limitations upon the conditions under which a prisoner may receive benefits as a full-time student and benefits based upon disability. The amendments also impose restrictions on making title II disability determinations by eliminating from consideration impairments or aggravations of preexisting impairments which occur during the commission of a felony. In addition, impairments or aggravations of preexisting impairments which arise in connection with confinement upon conviction for a felony cannot be considered for payment of disability benefits during the period of confinement. Before the enactment of Pub. L. 96-473 on October 19, 1980, persons confined to penal institutions for convictions of crimes and convicted criminals in mental institutions could become entitled to social security benefits if they met all the conditions required for benefit payments. Conviction of a crime and confinement at public expense generally did not affect benefit payments under the Act. There were only two exceptions. First, by regulation, a person convicted of the felonious homicide of an insured person could not receive social security benefits based on the earnings record of that person. Second, under the Act, a person convicted of a subversive crime against the United States, such as espionage, sabotage, treason, and sedition, could be denied social security benefits as a part of a sentence by a judge.

The 1970 census disclosed that there were approximately 4,000 prisoners throughout the United States who were receiving social security benefits. More recent data collected by the General Accounting Office (GAO) provided estimates of approximately 6,000 prisoners receiving these benefits. These figures indicated to Congress that the

number of prisoners becoming entitled to social security benefits is increasing. The Senate Committee on Finance expressed its concern in its Report accompanying H.R. 5295, the House of Representatives' bill which was later enacted as Pub. L. 96-473. (Senate Report No. 987, 96th Cong. 2nd Sess. (1980) page 8).

The committee believes that the basic purposes of the social security program are not served by the unrestricted payment of benefits to individuals who are in prison or whose eligibility arises from the commission of a crime. The disability program exists to provide a continuing source of monthly income to those whose earnings are cut off because they have suffered a severe disability. The need for this continuing source of income is clearly absent in the case of an individual who is being maintained at public expense in prison. The basis for his lack of other income in such circumstances must be considered to be marginally related to his impairment at best.

Disability Benefits

Consequently, the Act was amended to require the suspension of benefits to disabled workers and children disabled before age 22 who would otherwise be receiving benefits based on disability while imprisoned by reason of a felony conviction. This suspension applies unless the prisoner is participating in a vocational rehabilitation program which has been specifically approved for that prisoner by a court of law. However, benefit payments will continue only as long as the prisoner continues to participate actively and satisfactorily in an approved vocational rehabilitation program which is expected to result in the prisoner being able to do substantial gainful activity upon release and within a reasonable time. The amendments also provide that a person may not be considered to be a full-time student for payment of social security benefits while imprisoned for conviction of a felony. In addition, the amendments to the Act provide that impairments, to the extent that they arise from or are aggravated during the commission of a felony for which the individual is convicted, may never be considered in determining whether or not the individual qualifies for social security benefits based on disability. An impairment or aggravation not connected with the commission of a felony but occurring while an individual is in prison for conviction of a felony cannot be considered for purposes of benefit payments based on disability as long as the individual remains in prison. However, impairments arising, or aggravations of preexisting impairments occurring, during confinement can be

used to establish a period of disability for disabled workers. The Social Security Administration is proposing amendments in its regulations in 20 CFR Part 404 to reflect these changes in the law.

Student Benefits

We are proposing to amend § 404.367 of Subpart D (Old-Age, Disability, Dependents' and Survivors' Insurance Benefits; Period of Disability), by adding a new paragraph (d) to explain that no one will be considered in full-time school attendance for benefit payments while imprisoned for conviction of a felony committed after October 19, 1980. This change is based on section 5(b) of Pub. L. 96-473.

Nonpayment of Benefits Based on Disability to Prisoners

We are proposing to add a new § 404.468 to Subpart E (Deductions; Reductions; and Nonpayments of Benefits) to explain that if a person is imprisoned for conviction of a felony committed at any time and is entitled to social security benefits on the basis of disability, other than as a widow, widower, or surviving divorced spouse, benefits will not be paid for any month after September 1980, during all or part of which the person is imprisoned. The only exception to the nonpayment of a prisoner's benefit will be if the person is actively and satisfactorily participating in a rehabilitation program which is specifically approved by a court of law for that person and which the Secretary of Health and Human Services expects will result in the person's being able to do substantial gainful work upon release and within a reasonable time.

Although disability benefits are not payable to the prisoner during confinement, payment of benefits will be made, as if the prisoner were still receiving benefits, to family members who are otherwise entitled to benefits as the prisoner's dependents.

Benefits will be restored to the prisoner effective with the first full month after release from prison if he or she is still disabled. This rule is based on section 5(c) of Pub. L. 96-473.

Permanent Exclusion of Felony-Related Impairment

We are proposing to add a new § 404.1506 to Subpart P (Determining Disability and Blindness) to explain in paragraph (a) that in determining whether a person is under a disability, we will not consider any physical or mental impairment, or any increase in severity (aggravation) of a preexisting impairment, that occurs in connection with the commission of a felony. This

rule applies only to felonies committed after October 19, 1980, the date of enactment of Pub. L. 96-473. The person must also have been subsequently convicted of the crime. The impairment, or aggravation, must occur during the commission of the felony in order to be considered to have occurred in connection with the commission of the felony and to be excluded from consideration in determining disability. It is not necessary that there be a causative connection between the commission of the felony and the medical condition, but it must be related to, or associated with, the commission of the offense. Under these circumstances, the impairment or the aggravation of an impairment can never be considered in determining disability, whether or not the person is sentenced to prison. Nor can the impairment, or aggravation, be considered after release from prison after serving a sentence for the crime. This rule is based on section 5(a) of Pub. L. 96-473, and applies in determining disability for workers, children, widows, widowers, and surviving divorced spouses.

Impairments Occurring During Confinement

In the new § 404.1506 of Subpart P (Determining Disability and Blindness), we are proposing to add a paragraph (b) to explain that in determining whether a person is under a disability for purposes of benefit payments, we will not consider any physical or mental impairment, or any increase in severity (aggravation) of a preexisting impairment, that occurs in connection with confinement in a jail, prison, or other penal institution or correctional facility. However, the confinement must be due to the person having been convicted of a felony committed after October 19, 1980, the date of enactment of Pub. L. 96-473. An impairment is considered to have arisen in connection with confinement when it first occurs during confinement. An impairment that began prior to confinement and then increases in severity during confinement is considered to be aggravated in connection with confinement. Under this rule, the impairment or aggravation is excluded from consideration in determining disability for benefits payable for any month during which the person is imprisoned. However, in the case of a disabled worker, an impairment or aggravation that occurs during confinement can be used to establish a period of disability (disability freeze) while the worker is confined.

A prisoner who, because of this provision, is determined not to be disabled for benefit purposes, may become entitled to benefits based on disability upon release from prison, provided that the person is under a disability at that time. In order to receive these benefits, the person will have to apply for them again after release from prison. Benefits, including benefits for dependents, could begin effective with the first full month the person is no longer confined. This rule is also based on section 5(a) of Pub. L. 96-473 and applies to all benefits based upon disability, including benefits for disabled workers, disabled children, and disabled widows, widowers, and surviving divorced spouses.

We are also proposing to cross-refer § 404.1577, which defines disability for widows, widowers, and surviving divorced spouses, and § 404.1581, which defines blindness under the law, to the new § 404.1506 to show that the amendments apply to these cases.

Felonious Offenses and Confinement

Under section 5 of Pub. L. 96-473, a crime is a felony if it is an offense which constitutes a felony under applicable law. However, some legal jurisdictions, such as the State of New Jersey, the U.S. military under the Uniform Code of Military Justice, and some foreign countries, do not classify any crime as a felony. Both § 404.468(b) and § 404.1506(c) explain that in jurisdictions such as these, an offense punishable by death or imprisonment for a term exceeding one year will be considered a felony for purposes of these regulations. This rule is the same as the definition of felony in 18 U.S.C. 1(1), the U.S. Criminal Code.

Also, the proposed new §§ 404.468(c) and 404.1506(d) explain that a jail, prison, or other penal institution or correctional facility includes any facility which is under the control and jurisdiction of the agency in charge of the penal system or any facility in which convicted criminals can be incarcerated. This includes, for example, a mental hospital for the criminally insane which is used as a place for incarcerating convicted criminals, regardless of whether that institution is operated by the correctional authority. These proposed new sections also explain that a person under sentence of confinement to any of these facilities is considered "confined" even though he or she is temporarily hospitalized outside the facility or is temporarily or intermittently outside the facility to work, attend school, or for some other reason. However, a prisoner who is

released on parole or because his or her sentence has ended, been suspended or overturned would no longer be considered confined in the penal facility. Proposed new paragraph (d) of § 404.367 has been cross-referred to proposed § 404.468(b) and (c).

Executive Order 12291—These proposed regulations have been reviewed under E.O. 12291 and do not meet any of the criteria for a major regulation. Therefore, a regulatory impact analysis is not required.

Regulatory Flexibility Act—We certify in accordance with the Regulatory Flexibility Act that these proposed regulations do not have any adverse impact on small entities, because they only place certain restrictions on the payment of benefits based on disability and students benefits to persons who have been convicted of a felony and are imprisoned and restrict the use of certain impairments in determining disability.

Paperwork Reduction Act—These proposed regulations impose no reporting/recordingkeeping requirements necessitating OMB clearance.

(Secs. 202, 205, 216, 223, and 1102 of the Social Security Act, as amended; 49 Stat. 623, as amended, 53 Stat. 1362, as amended, 64 Stat. 510, as amended, 70 Stat. 815, as amended, and 49 Stat. 647, as amended; 42 U.S.C. 402, 405, 416, 423 and 1302)

(Catalog of Federal Domestic Assistance Program Nos. 13.802, Social Security Disability Insurance; 13.803, Social Security Retirement Insurance; 13.805, Social Security Survivors' Insurance)

List of Subjects in 20 CFR Part 404

Administrative practice and procedure, Death benefits, Disabled, old-age, survivors and disability insurance.

Dated: May 17, 1982.

John A. Svahn

Commissioner of Social Security.

Approved: May 25, 1982.

Richard S. Schweiker,

Secretary of Health and Human Services.

For the reasons set out in the preamble, Part 404 of Chapter III of Title 20, Code of Federal Regulations, is amended as set forth below.

PART 404—FEDERAL OLD-AGE, SURVIVORS AND DISABILITY INSURANCE (1950-)

Subpart D—Old-Age, Disability, Dependents' and Survivors' Insurance Benefits; Period of Disability

20 CFR Part 404, Subpart D is amended as follows:

1. The authority citation for Subpart D reads as follows:

Authority: Secs. 202, 205, 216, 223, 228, 1102 of the Social Security Act, 49 Stat. 623, 53 Stat. 1368, 64 Stat. 492, 70 Stat. 815, 80 Stat. 67, 49 Stat. 647; Sec. 5, Reorganization Plan No. 1 of 1953, 67 Stat. 631; 42 U.S.C. 402, 405, 416, 423, 428, and 1302, and 5 U.S.C. Appendix.

2. Section 404.367 is amended by adding a new paragraph (d), reading as follows.

§ 404.367 When are you a "full-time student."

* * * * *

(d) You are not confined in a jail, prison, or other penal institution or correctional facility for conviction of a felony committed after October 19, 1980. (See § 404.468, paragraphs (b) and (c) for the meaning of "felony" and an explanation of when we consider a person to be confined in a penal or correctional facility).

Subpart E—Deductions; Reductions; and Nonpayments of Benefits

20 CFR Part 404, Subpart E is amended as follows:

3. The authority citation for Subpart E reads as follows:

Authority: Secs. 205, 207, and 1102, 53 Stat. 1368, as amended, 79 Stat. 379, as amended, 49 Stat. 647, as amended; sec. 5 of Reorganization Plan No. 1 of 1953, 67 Stat. 18; 42 U.S.C. 405, 427, 1302, unless otherwise noted.

4. A new § 404.468 is added to Subpart E, reading as follows:

§ 404.468 Nonpayment of benefits based on disability to prisoners.

(a) *General.* Except for widows, widowers, and surviving divorced spouses, no benefits based upon disability will be paid to any individual for any month any part of which the individual is confined in a jail, prison, or other penal institution or correctional facility for conviction of a felony. This rule is effective with benefits payable for months beginning on or after October 1, 1980. However, it applies only to the prisoner; benefit payments to any other person who is entitled on the basis of the prisoner's wages and self-employment income are payable as though the prisoner were receiving disability benefits.

(b) *Felonious Offenses.* An offense will be considered a felony if—

(1) It is a felony under applicable law; or

(2) In a jurisdiction which does not classify any crime as a felony, it is an offense punishable by death or imprisonment for a term exceeding one year.

(c) *Confinement.* In general, a jail, prison, or other penal institution or correctional facility is a facility which is under the control and jurisdiction of the agency in charge of the penal system or in which convicted criminals can be incarcerated. Confinement in such a facility continues as long as the individual is under a sentence of confinement and has not been released due to parole or pardon. An individual is considered confined even though he or she is temporarily or intermittently outside of that facility (e.g., on work release, attending school, or hospitalized).

(d) *Vocational rehabilitation exception.* The nonpayment provision of paragraph (a) of this section does not apply if the prisoner is actively and satisfactorily participating in a rehabilitation program which has been specifically approved for the individual by a court of law. In addition, the Secretary must determine that the program is expected to result in the individual being able to do substantial gainful activity upon release and within a reasonable time. No benefits will be paid to the prisoner for any month prior to the approval of the program.

Subpart P—Determining Disability and Blindness

20 CFR Part 404, Subpart P is amended as follows:

5. The authority citation for Subpart P reads as follows:

Authority: Issued under Secs. 202, 205, 216, 221, 222, 223, 225, and 1102 of the Social Security Act, as amended; 49 Stat. 623, as amended, 53 Stat. 1368, as amended, 68 Stat. 1080, as amended, 68 Stat. 1081, as amended, 68 Stat. 1082, as amended, 70 Stat. 815, as amended, 70 Stat. 817, as amended, 49 Stat. 647, as amended; 42 U.S.C. 402, 405, 416, 421, 422, 423, 425, and 1302.

6. A new § 404.1506 is added to Subpart P, reading as follows:

§ 404.1506 When we will not consider your impairment.

(a) *Permanent exclusion of felony-related impairment.* In determining whether you are under a disability, we will not consider any physical or mental impairment, or any increase in severity (aggravation) of a preexisting impairment, which arises in connection with your commission of a felony after October 19, 1980, if you are subsequently convicted of this crime. Your subsequent conviction will invalidate any prior determination establishing disability if that determination was based upon any impairment, or aggravation, which we must exclude under this rule.

(b) *Limited use of impairment arising in prison.* In determining whether you are under a disability for purposes of benefit payments, we will not consider any physical or mental impairment, or any increase in severity (aggravation) of a preexisting impairment, which arises in connection with your confinement in a jail, prison, or other penal institution or correctional facility for conviction of a felony committed after October 19, 1980. The exclusion of the impairment, or aggravation, applies in determining disability for benefits payable for any month during which you are confined. This rule does not preclude the establishment of a period of disability based upon the impairment or aggravation. You may become entitled to benefits upon release from prison provided that you apply and are under a disability at that time.

(c) *Felonious offenses.* We will consider an offense a felony if—

(1) It is a felony under applicable law; or

(2) In a jurisdiction which does not classify any crime as a felony, it is an offense punishable by death or imprisonment for a term exceeding one year.

(d) *Confinement.* In general, a jail, prison, or other penal institution or correctional facility is a facility which is under the control and jurisdiction of the agency in charge of the penal system or in which convicted criminals can be incarcerated. Confinement in such a facility continues as long as you are under a sentence of confinement and have not been released due to parole or pardon. You are considered confined even though you are temporarily or intermittently outside of the facility (e.g., on work release, attending school, or hospitalized).

§ 404.1577 [Amended]

7. Section 404.1577 of Subpart P is amended by adding to the end a new sentence that reads: "We also do not consider certain felony-related and prison-related impairments, as explained in § 404.1506."

§ 404.1581 [Amended]

8. Section 404.1581 of Subpart P is amended by adding to the end a new sentence that reads: "We do not consider certain felony-related and prison-related impairments, as explained in § 404.1506."

[FR Doc. 82-15888 Filed 6-10-82; 6:45 am]

BILLING CODE 4190-11-M

Food and Drug Administration

21 CFR Part 101

[Docket No. 77N-0404]

Food Labeling; Protein Products; Warning Label

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to amend a final rule published in the *Federal Register* of April 4, 1980, that established label warning requirements for certain protein products that may be used to reduce weight. The regulation is being amended in accordance with a decision of the District Court for the District of Columbia. The decision found a part of the regulation to be invalid and remanded the entire regulation to the agency for revision of those parts of the regulation invalidated by the court. This document proposes amendments to the regulation that are consistent with the courts ruling.

DATE: Comments by August 10, 1982; should a final rule be published, it will become effective 90 days after its publication in the *Federal Register*.

ADDRESS: Written comments (preferably two copies) to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-82, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Victor P. Frattali, Bureau of Foods (HFF-261), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-245-1064.

SUPPLEMENTARY INFORMATION:

I. General Background

In the *Federal Register* of December 2, 1977 (42 FR 61285), FDA first proposed to require warnings on the labels and labeling of protein products that may be used for weight reduction. The proposal was issued after FDA received numerous reports of illness and death among persons using these products in very low calorie diets for rapid weight loss. Since that time, significant evidence has accumulated supporting the hypothesis that prolonged use of these protein products for rapid weight loss is related to the sudden onset of cardiac arrhythmias and death in otherwise healthy individuals.

The final rule was published in the *Federal Register* of April 4, 1980 (45 FR 22904). It required that the label and other labeling of any food product that derives more than 50 percent of its total caloric value from either whole protein, protein hydrolysates (degradation

products of the chemical or enzymatic treatment of protein), amino acid mixtures, or a combination of these, and that is promoted for use to reduce weight bear the following warning:

Warning.—Very low calorie protein diets (below 800 Calories per day) may cause serious illness or death. DO NOT USE FOR WEIGHT REDUCTION WITHOUT MEDICAL SUPERVISION. Use with particular care if you are taking medication. Not for use by infants, children, or pregnant or nursing women.

(This warning hereafter is referred to as the "first warning.")

The final rule also provided that protein products subject to the first warning are exempt from that labeling requirement if they are promoted as part of a nutritionally balanced diet plan providing 800 or more Calories (kilocalories) per day, if their label and other labeling bear the following warning:

Warning.—Use only as directed in the diet plan herewith * * * Do not use as the sole or primary source of calories for weight reduction.

(This warning hereafter is referred to as the "second warning.")

In addition, the final rule provided that the label and other labeling of protein products, as defined in § 101.17(a)(1) (21 CFR 101.17(a)(1)), promoted or intended for food supplementation and promoted specifically for purposes other than weight reduction bear the following warning:

Warning.—Use this product as food supplement only. Do not use for weight reduction.

(This warning hereafter is referred to as the "third warning.")

Finally, the regulation required that all of the warning statements appear prominently and conspicuously on the principal display panel of the product's package label and on any other labeling in letters of not less than one-sixteenth of an inch.

On May 5, 1980, the Council for Responsible Nutrition (CRN), a trade association whose membership includes manufacturers of dry, whole protein products, filed suit in the District Court for the District of Columbia seeking declaratory and injunctive relief to invalidate the protein products warning label regulation. (A copy of CRN's complaint has been placed on file with FDA's Dockets Management Branch.)

On August 1, 1980, Judge Joyce Hens Green issued a decision in which she held that FDA has legal authority and adequate evidence to impose a label warning requirement on dry, whole

protein products to denote the health risks that might arise from such products while dieting. (A copy of Judge Green's opinion is on file with FDA's Dockets Management Branch.)

Specifically, the court upheld the overall labeling scheme adopted by the agency in which the severity of the warning lessened as the likelihood for misuse of the product lessened. In upholding the second and third warnings, the court stated that "there is no basis for invalidating the defendants' efforts to impose the second and third warnings on dry, whole protein products promoted for use in nutritionally balanced diets of 800 or more calories and on dry, whole protein products promoted as food supplements." (*Id.* at 20-21). The court further held that the first warning was valid as it applied to dry, whole protein products promoted in diets of less than 400 Calories per day. (*Id.* at 18-19).

The court did find, however, that there was insufficient evidence in the record to support FDA's finding that diets between 400 and 800 Calories per day may cause serious illness or death and therefore invalidated the regulation to the extent that it required warnings informing consumers that diets between 400 and 800 Calories per day may cause serious illness or death. The court remanded this portion of the regulation to FDA "for further study and the formulation of sufficient evidence to support its rule as presently drawn or to enable it to create any new warning or warnings that may be required" (*Id.* at 21). Because of the court's view that it would be inequitable and unwise to place the second and third warnings into effect while remanding the first, the court's remand encompassed the entire regulation.

Although the court did not reach a final decision on certain first amendment issues raised by CRN, the court did observe that, while FDA was not obligated to accept language recommended by CRN, CRN had suggested that its members would accept cautionary words other than "Warning" such as "Important" or "Notice." The court further noted that FDA should consider, as an alternative to the second warning's directive that the diet plan be carried in full on those products seeking an exemption from the first warning, whether distributors should be given the option of providing an address from which such a diet plan could be obtained by mail. (FDA's response to these suggestions are discussed below.)

The agency decided not to seek appeal of Judge Green's decision because the agency substantially

prevailed in the litigation. On October 10, 1980, FDA published a notice in the Federal Register (45 FR 67319) announcing that it would not implement the April 4, 1980, final rule and that the agency would reopen the rulemaking proceeding in accordance with the remand instructions of Judge Green.

On June 26, 1980, a second legal action was filed in the District Court for the Southern District of New York by the National Nutritional Foods Association (NNFA), a trade association representing manufacturers of liquid as well as powdered protein products. NNFA made legal and factual arguments similar to those arguments presented to the District of Columbia District Court by CRN. This case is now being held in abeyance as a result of FDA's decision to reopen the rulemaking proceeding and propose to revise the regulation in accordance with Judge Green's instructions.

Following Judge Green's decision, CRN submitted a letter to FDA dated November 11, 1980, which proposed changes in the protein product label warning regulation and requested that FDA allow notice and comment on any changes to be made. (A copy of CRN's letter has been placed on file with FDA's Dockets Management Branch.) Although FDA is not legally required to allow notice and comment, it has decided to do so because this proposal involves an important public health issue and has generated a great deal of controversy. Because FDA has decided to accept public comment on the current proposal, FDA will not respond to CRN's proposals in this document, but rather will consider them with other comments received in response to this proposal.

II. New Evidence

FDA has reexamined the record of this rulemaking proceeding and examined other available information to determine whether additional evidence exists concerning the risks associated with the use of protein products in very low calorie diets generally, and specifically in diets of 400 to 800 Calories per day. FDA believes that it has found significant additional evidence concerning some of these risks both in the existing record and from other sources.

A. The University of Rochester Study

A recent study conducted at the University of Rochester demonstrated that a liquid protein diet of 300 Calories per day is frequently associated with potentially life-threatening arrhythmias that are not detected by routine electrocardiography. (Lantigua, R. A., et al., Cardiac Arrhythmias Associated

With a Liquid Protein Diet for the Treatment of Obesity, *New England Journal of Medicine*, 303: 735-8, 1980.) (A copy of this article has been placed on file with FDA's Dockets Management Branch.) In this closely monitored in-patient study, potentially life-threatening arrhythmias were documented through 24-hour ambulatory recordings in 3 of 6 obese patients within 4 weeks after the liquid protein diet had begun. These arrhythmias occurred as early as 10 days after the beginning of the diet and were not detected on repeat standard 12-lead electrocardiography. The absence of these arrhythmias in the periods before and after the diet was considered to preclude the possibility of spontaneous variability in cardiac rhythm.

The study used a commercially available collagenderived amino acid mixture as the sole source of protein. The authors of the study did not attribute these cardiac abnormalities to the quality of the protein used, noting that "the cause of these cardiac abnormalities is unknown." Indeed, the authors observed that their subjects "had modest total body protein loss, as measured by potassium-40 counting and nitrogen balance. This loss occurred primarily in the first 10 days of the diet, and over 40 days averaged 2.25 grams per day, which is similar to the loss while ingesting protein of high biological value." (*Id.* at 737, footnotes omitted.) These data tend to support the conclusion that protein quality is not a demonstrable factor in the causation of these cardiac arrhythmias.

The authors of the study concluded that "protein-supplemented fasts as currently prescribed should be terminated pending further studies of the cause and prevention of such cardiac arrhythmias." (*Id.* at 738.)

Although the agency does not believe that the findings of the University of Rochester study are sufficient to warrant banning the use of protein products in very low calorie diets, these data add considerable support to FDA's conclusion that very low calorie protein diets may cause serious illness or death. The most significant aspect of this study is that potentially life-threatening effects that were not detectable by conventional electrocardiography occurred within a short period of time. These data underscore the need for appropriate label warnings to ensure that unsuspecting consumers are not subjected to these hazards.

While the agency recognizes that the caloric intake of those persons in the University of Rochester study was below 400 Calories per day, the study

does not provide any assurance that protein diets above 400 Calories per day are safe. The agency has been unable to obtain detailed information concerning the risks of protein diets above 400 calories per day.

B. Other Evidence Concerning Protein Biological Quality and Caloric Intake

The agency is aware of newly published and some unpublished clinical data that permit an evaluation of the metabolic efficacy of high and low biological quality protein foods when used for rapid weight reduction at daily intakes between approximately 330 and 500 Calories. These studies include one conducted at the University of California at Los Angeles (Fisler, J. S.; Very Low Calorie—Protein Sparing—Diets in Severe Obesity, A Metabolic Evaluation of High and Low Quality Protein Supplements with Comparisons to Total Fasting; dissertation for the degree of Doctor of Philosophy in Public Health, UCLA, 1980), another at Columbia University (Yang, M. U., et al., Metabolic Effects of Substituting Carbohydrate for Protein in a Very Low Calorie Diet: A Prolonged Study in Obese Patients, *International Journal of Obesity*, 5:231-236, 1981), and a third at Yale University (DeHaven, J., et al., Nitrogen and Sodium Balance and Sympathetic-Nervous-System Activity in Obese Subjects Treated with a Low-Calorie Protein or Mixed Diet, *New England Journal of Medicine*, 302:477-82, 1980). All documents have been filed with FDA's Dockets Management Branch.

The UCLA study involved 10 obese male subjects divided equally between two test groups: one fed a low calorie, low quality (hydrolyzed collagen) protein diet, and the other fed a high quality soy protein diet. The diets for both groups lasted for 40 days. Daily amounts of protein were determined on the basis of ideal body weight for each subject. Accordingly, the averages and ranges for daily caloric intake for the low and high biological quality protein diet groups were 372 (302-455) Calories per day, and 416 (361-476) Calories per day, respectively. Mean nitrogen balance values for the low and high quality protein groups were calculated to be -4.41 and -3.57 g per day. The difference between the two groups, however, was not found to be statistically significant.

In the Columbia University study, three obese male subjects were fed a low calorie protein diet of high biological quality with a small amount of safflower oil at fixed intakes based on ideal body weight. The intakes ranged from 430 to 480 Calories per day.

The average value nitrogen balance of -3.52 g per day for the first 40 days is almost identical to the observed in the UCLA study. In the Yale University study, a net nitrogen balance of -2.6 g per day was reported for one male and six female subjects on a 21-day low calorie protein diet consisting of boiled turkey at 400 Calories per day. As mentioned previously, the University of Rochester group reported an average value of -2.25 g nitrogen per day for six obese subjects (five women and one man) placed on a hydrolyzed collagen diet at 300 Calories per day for 40 days.

All of these data taken together indicate that total body protein loss is similar for both high and low quality protein products in very low calorie diets. Since it is not known to what extent the rate of body protein loss, as determined from nitrogen balance data, is a factor relevant to the causation of death, the agency sees no basis for distinguishing among protein products on the basis of biological quality in very low calorie diets.

The agency has also reexamined the telephone survey conducted in 1977 to determine the usage of protein products in dieting. This reexamination has revealed that at least 79 percent (and possibly more) of the persons who reported using a powdered protein product as the principal or sole source of calories for a day or longer were using a high quality powdered protein product.¹ Virtually none of these high quality powdered protein products was promoted specifically for use in diets of less than 400 Calories per day.

Moreover, further examination of the results of the telephone survey revealed that significant numbers of persons were using these high quality protein products for extended periods of time, in some cases exceeding one or two months. These data lend further support to FDA's conclusion that high quality powdered protein products can be and have been used as the principal or sole source of calories for extended periods of time. In view of the risks of such usage, label warning requirements for such products are clearly warranted.

From the telephone survey, FDA has made statistical projections of the numbers of powdered protein product users in the U.S. among 25 to 44 year old females during 1977. These projections demonstrated that during 1977, between 17,000 and 78,000 women in this age category consumed a powdered protein product as the sole or principal source of calories for a month or more and

between 5,000 and 51,000 women in this category consumed such products for 2 months or more. Given that at least 79 percent of those persons who reported using a powdered protein product as the principal or sole source of calories for a day or longer were in fact using a high quality protein product, these projections show that a significant number of people used high quality powdered protein products as the sole or principal source of calories for periods both of 1 month or longer and of 2 months or longer.

Finally, FDA's reexamination of the telephone survey has also revealed that 14 of the persons surveyed who reported using a high quality powdered protein product as the sole or principal source of calories for a period of a day or longer also reported that they discontinued use of the product because they became ill. Although this additional evidence lacks sufficient detail to permit any firm conclusions to be drawn about the safety of high quality protein products when used in very low calorie diets, it is an added cause for concern about the safety of these products and, when viewed with the other evidence of serious illness and death associated with the use of high quality powdered protein products discussed in the tentative final rule (43 FR 60890) and the final rule (45 FR 22906), confirms FDA's conclusions that the proposed label warning requirements should apply to high quality powdered protein products.

III. The Proposed Protein Product Label Warning and Notice Regulation

FDA proposes to make the following six changes in the April 4, 1980, label warning regulation:

1. The first statement, a warning would be amended to inform consumers that "Very low calorie protein diets (below 400 Calories per day) (instead of 800 Calories per day) may cause serious illness or death." In addition, the statement "Use with particular care if you are taking medication" would be deleted from the first warning.
2. The second statement, a notice would be amended to exempt products promoted in diets of 400 Calories or more per day rather than 800 Calories or more per day.
3. The definition of "protein products" subject to the label warning requirements would be amended to include only protein products marketed in liquid, powder, capsule, tablet, or similar forms. Because of this revision, the exemption from the warning for traditional foods labeled "low calorie" or "reduced calorie" in accordance with

¹FDA was unable to determine the quality of the powdered protein products used by the remaining people in this category.

21 CFR 105.66 would be unnecessary and therefore would be deleted.

4. The second and third statements would be amended by substituting for the word "Warning" the word "Notice" preceding the text of the second and third statements.

5. The second statement would be amended to eliminate the requirement that the entire detailed diet plan be included on the labeling of the product if the manufacturer includes a brief description of the plan in the labeling of the product and makes the complete diet plan available by mail.

6. The specific requirements for the form of the label statements, e.g., letter size, have been deleted. The statements would be required only to appear prominently and conspicuously on the principal display panel of the label and any other labeling.

A. Proposed Revision of the First and Second Label Warnings

FDA has reviewed and reassessed the evidence in the record at the time of the publication of the April 4, 1980, final rule and the new evidence discussed above and believes that the record fully supports the need for a warning informing consumers that protein diets consisting of less than 400 Calories per day may cause serious illness or death. Therefore, FDA proposes to retain the first warning, but to amend it to delete the statement that protein diets below 800 Calories per day may cause serious illness or death and replace it with a statement that, "Very low calorie protein diets (below 400 Calories per day) may cause serious illness or death."

The agency has also deleted the phrase "Use with particular care if you are taking medication" from the first warning. The agency decided that this phrase was unnecessary in view of the statement in the first warning that the product should not be used for weight reduction without medical supervision. FDA continues to be concerned about the health effects of protein products used in diets providing between 400 and 800 Calories per day. FDA believes that a diet consisting of between 400 and 800 Calories per day and followed for an extended period of time is potentially hazardous no matter what foods are consumed. A recent review of available scientific information entitled "Evidence Concerning Hazards of 400-800 Calorie Diets and Related Questions," which was prepared under contract with FDA and which has been placed on file with FDA's Dockets Management Branch, lends support to this position. FDA has decided, however, that the evidence at this time relating specifically to the use

of protein products in diets between 400 and 800 Calories per day is insufficient to warrant requiring on such products a warning of serious illness or death. Therefore, FDA proposes to amend the second statement by exempting from the warning all protein products promoted as part of a nutritionally balanced diet plan providing 400 Calories or more per day. Manufacturers who choose to do so may of course promote their products as part of a nutritionally balanced diet plan providing 800 Calories or more per day without violating the Federal Food, Drug, and Cosmetic Act, if they comply with the other provisions of the second statement requirement.

FDA believes that the evidence of record fully supports the proposed amendments to the first and second statements as they apply to both liquid collagen-derived and dry, whole protein products. This evidence is discussed in detail above and in FDA's initial proposed rule (42 FR 61285), the tentative final rule (43 FR 60883), and the April 4, 1980 final rule (45 FR 22904). FDA incorporates by reference these documents and the evidence cited in them. FDA further believes that this amendment to the first and second statements remedies the defect in them found by Judge Green.

B. Proposed Revision of Protein Products Definition

FDA proposes to revise the definition of "protein products" subject to this regulation to include only protein products in liquid, powder, tablet, capsule, or similar forms. FDA is proposing this revision in response to comments by CRN and other manufacturers that traditional foods such as fish and cottage cheese should not be subject to the label warning requirement even though they derive more than 50 percent of their caloric value from protein. FDA agrees with these suggestions because, unlike liquid and dry, whole powdered protein products, there is no significant evidence of usage of traditional foods in very low calorie diets nor is FDA aware that any traditional foods have been promoted for use in such diets. FDA therefore is proposing to narrow the definition of "protein products" subject to the proposed rule to those products containing protein in a form compositionally equivalent to the form of protein that was associated with the deaths and serious illnesses reported to FDA, i.e., liquid, powder, tablet, capsule, or similar forms. Because of this proposed revision, the exemption from the warning for traditional foods labeled "low calorie" or "reduced calorie" in accordance with 21 CFR 105.66 is

unnecessary. FDA therefore proposes to delete this provision.

C. Proposed Revisions of the Second and Third Labeling Statements

FDA proposes to revise further the second labeling statement which required manufacturers to include the complete detailed diet plan on the label of the product. Under this proposal, manufacturers would have the option of either including a brief description of the diet plan on the label or in the labeling of the product or informing consumers that the detailed diet plan can be obtained by mail. This option would place less of a burden on manufacturers, especially those who recommend lengthy or complex diet plans.

In addition, FDA proposes to amend the second and third labeling statements, in accordance with Judge Green's suggestion, to lessen their severity. The text of the second and third labeling statements was preceded by the word "Warning," which many manufacturers complained was too harsh. Under the proposal, the text of the proposed notice would be preceded by the word "Notice" rather than "Warning." FDA believes that the word "Notice" is sufficient to alert consumers and at the same time should satisfy manufacturers who complained about the word "Warning."

D. Proposed Revision of the Required Format

FDA proposes to amend § 101.17(d)(7) to require only that the labeling statements "appear prominently and conspicuously on the principal display panel of the package label and on any other labeling." The agency proposes to delete specific requirements as to the size of the lettering and other format requirements to give manufacturers more flexibility to design their own label warning and notice formats, while at the same time ensuring that the statement is prominent and conspicuous so that consumers are given adequate notice of the information contained in the warning and notices.

IV. Conclusion

After consideration of all comments received in response to this notice of proposed rulemaking, the agency will decide whether to publish a final regulation in the Federal Register establishing the label warning and notice requirements.

All information on which the agency relies in support of this proposal has been filed with the Dockets Management Branch (address above). A

list of these documents can be obtained from the Dockets Management Branch.

The environmental impact analysis report prepared in conjunction with the regulation proposed December 2, 1977, was determined valid for this proposal. A copy of the environmental impact analysis report has been filed in the Dockets Management Branch.

FDA, in accordance with the Regulatory Flexibility Act, has considered the effect that this proposed rule would have on small entities including small businesses and has determined that the proposal will require labeling changes involving minimal cost expenditures. Therefore, FDA certifies in accordance with section 605(b) of the act that no significant economic impact on a substantial number of small entities will derive from this action. The agency has also determined that the proposed rule is not a major rule as defined in Executive Order 12291.

A copy of the regulatory assessment supporting these determinations is on file with the Dockets Management Branch.

List of Subjects in 21 CFR Part 101

Food labeling; Misbranding; Nutrition labeling; Warning statements.

PART 101—FOOD LABELING

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(n), 403(a), 701(a), 52 Stat. 1041 as amended, 1047 as amended, 1055 (21 U.S.C. 321(n)), 343(a), 371(a)) and under 21 CFR 5.11 as revised (see 47 FR 16010; April 14, 1982), it is proposed that Part 101 be amended in § 101.17 by adding new paragraph (d) to read as follows:

§ 101.17 Food labeling warning and notice statements.

(d) *Protein products.* (1) The label and labeling of any food product in liquid, powdered, tablet, capsule, or similar forms that derives more than 50 percent of its total caloric value from either whole protein, protein hydrolysates, amino acid mixtures, or a combination of these, and that is represented on the label or in labeling or is otherwise promoted for use to reduce weight shall bear the following warning:

Warning.—Very low calorie protein diets (below 400 Calories per day) may cause serious illness or death. DO NOT USE FOR WEIGHT REDUCTION WITHOUT MEDICAL SUPERVISION. Not for use by infants, children, or pregnant or nursing women.

(2) Products described in paragraph (d)(1) of this section are exempt from the labeling requirements of that paragraph

if the protein products are promoted as part of a nutritionally balanced diet plan providing 400 or more Calories (kilocalories) per day and the label or labeling of the product specifies the diet plan in detail or provides a brief description of that diet plan and adequate information describing where the detailed diet plan may be obtained and the label and labeling bear the following statement:

Notice.—Use only as directed in the diet plan described herewith (the name and specific location in labeling of the diet plan may be included in this statement in place of "diet plan described herewith"). Do not use as the sole or primary source of calories for weight reduction.

(3) The label and labeling of food products promoted or intended for dietary (food) supplementation that derive more than 50 percent of their total caloric value from either whole protein, protein hydrolysates, amino acid mixtures, or a combination of these, and that are promoted specifically for purposes other than weight reduction shall bear the following statement:

Notice.—Use this product as a food supplement only. Do not use for weight reduction.

(4) Protein products described in paragraph (d)(2) of this section that are also promoted for purposes other than weight reduction as described in paragraph (d)(3) of this section shall bear the warning statement set forth in paragraph (d)(2) of this section except that the phrase "or as a food supplement" may be inserted in the first sentence, i.e., "Use only as directed in the diet plan described herewith or as a food supplement."

(5) The provisions of this paragraph are separate from and in addition to any labeling requirements promulgated by the Federal Trade Commission for protein supplements.

(6) Protein products shipped in bulk form for use solely in the manufacture of other foods and not for distribution to consumers in such container are exempt from the labeling requirements of this paragraph.

(7) The warning and notice statements required by paragraphs (d)(1), (2), (3), and (4) of this section shall appear prominently and conspicuously on the principal display panel of the package label and on any other labeling.

Interested persons may, on or before August 10, 1982, submit to the Dockets Management Branch written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in

brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: May 19, 1982.

Arthur Hull Hayes, Jr.,
Commissioner of Food and Drugs.

Dated: May 19, 1982.

Richard S. Schweiker,
Secretary of Health and Human Services.

[FR Doc. 82-15798 Filed 6-9-82 10:42 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 938

Public Disclosure of Comments Received From Federal Agencies on the Pennsylvania Proposed State Permanent Program

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

ACTION: Proposed rule.

SUMMARY: Before the Secretary of the Interior may approve permanent State regulatory programs submitted under section 503(a) of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), the views of certain Federal agencies must be solicited and disclosed. The Secretary has solicited comments of these agencies on the Pennsylvania proposed program, and is today announcing their public disclosure.

ADDRESSES: Copies of the comments received are available for public review during regular business hours at:

Pennsylvania Department of Environmental Resources, Fulton Bank Bldg., 10th Floor, Third and Locust Streets, Harrisburg, Pennsylvania 17120, Phone: (717) 787-4686

Office of the Field Solicitor, 603 Morris Street, Charleston, West Virginia 25301, Phone: (304) 347-7175

Office of Surface Mining, Department of the Interior, Room 5315, 1100 L Street NW., Washington, D.C. 20240, Phone: (202) 343-7896

FOR FURTHER INFORMATION CONTACT: Mr. Patrick B. Boggs, Regional Director, Office of the Field Solicitor, 603 Morris Street, Charleston, West Virginia 25301, Phone: (304) 347-7175.

SUPPLEMENTARY INFORMATION: The Secretary of the Interior is reevaluating the permanent regulatory program

submitted by Pennsylvania for his review on February 29, 1980, and the revisions thereto. See 45 FR 15575-15576 (March 11, 1980), 45 FR 28165-28167 (April 28, 1980), FR 41656-41659 (June 20, 1980), 45 FR 69970-69977 (October 22, 1980), 47 FR 4318-4320 (January 29, 1982), 47 FR 15368 (April 9, 1982), 47 FR 19721-19722 (May 7, 1982). In accordance with section 503(b)(1) of SMCRA and 30 CFR 732.13(b)(1), the Pennsylvania program may not be approved until the Secretary has solicited and publicly disclosed the views of the Administrator of the Environmental Protection Agency, the Secretary of Agriculture, and the heads of other Federal agencies concerned with or having special expertise relevant to the program as proposed. In this regard, the following Federal agencies were invited to comment on the Pennsylvania program:

Advisory Council on Historic Preservation
 Appalachian Regional Commission
 Council on Environmental Quality
 Delaware River Basin Commission
 Department of Agriculture
 Agriculture Stabilization and Conservation Service
 Farmers Home Administration
 Forest Service
 Agricultural Research Service
 Soil Conservation Service
 Department of Energy
 Department of the Interior
 Bureau of Indian Affairs
 Bureau of Land Management
 Bureau of Mines
 Bureau of Reclamation
 Fish and Wildlife Service
 Geological Survey
 National Park Service
 Department of Labor
 Mine Safety and Health Administration
 Environmental Protection Agency
 Ohio River Basin Commission
 U.S. Army Corps of Engineers
 Water Resources Council

Of those agencies invited to comment, OSM received comments from the following offices:

Advisory Council on Historic Preservation
 Delaware River Basin Commission
 Department of Agriculture
 Forest Service
 Soil Conservation Service

Department of the Interior
 Fish and Wildlife Service
 Geological Survey
 Bureau of Mines
 Bureau of Land Management
 Department of Labor
 Mine Safety and Health Administration
 Environmental Protection Agency
 U.S. Army Corps of Engineers

These comments are available for review and copying during regular business hours at the locations listed above under "ADDRESSES."

Dated: June 8, 1982.

Carl C. Close,

Acting Assistant Director, Program Operations and Inspection, Office of Surface Mining, Reclamation and Enforcement.

[FR Doc. 82-15885 Filed 6-10-82; 8:45 am]

BILLING CODE 4310-05-M

Bureau of Land Management

43 CFR Subtitle A and Subtitle B

Draft Wildlife Program Policy Statement

AGENCY: Bureau of Land Management, Interior.

ACTION: Extension of comment period.

SUMMARY: The comment period in the Federal Register Notice, dated May 10, 1982, (47 FR, Vol. 90, Page 20009) has been extended from June 30, 1982, to July 30, 1982, regarding basic policies for managing and safeguarding wildlife resources on the public lands.)

DATE: Comments by July 30, 1982.

ADDRESS: Comments should be sent to: Director (240), Bureau of Land Management, 18th and C Streets, NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: J. David Almand, 202/653-9202.

Robert F. Burford,

Director, Bureau of Land Management.

June 7, 1982.

[FR Doc. 82-15834 Filed 6-10-82; 8:45 am]

BILLING CODE 4310-84-M

Notices

Federal Register

Vol. 47, No. 113

Friday, June 11, 1982

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.

ACTION

Information Collection Request Under Review

AGENCY: ACTION.

ACTION: Information Collection Request Under Review.

SUMMARY: This notice sets forth certain information about an information collection proposal by ACTION, the national volunteer agency.

BACKGROUND: Under the Paperwork Reduction Act (44 U.S.C., Chapter 35), the Office of Management and Budget (OMB) reviews and acts upon proposals to collect information from the public or to impose recordkeeping requirements. ACTION has submitted the information collection proposal described below to OMB. OMB and ACTION will consider comments on proposed collect of information and recordkeeping requirements. Copies of the proposed forms and supporting documents (request for clearance (SF 83), supporting statement, instructions, transmittal letter, and other documents) may be obtained from the agency clearance officer.

INFORMATION ABOUT THIS PROPOSED

COLLECTION: Agency Clearance Officer—Richard D. English—202-254-8501.

Agency Address: ACTION, 806 Connecticut Ave., N.W. Washington, D.C. 20525.

I

Title of Form: Descriptive Evaluation of RSVP and FGP Volunteers Working in Selected Head Start Projects Office of ACTION Issuing Proposal: Evaluation Division Office of Policy and Planning.

Agency Official to Contact for Further Information: Melvin E. Beetle.

Type of Request: New.

Frequency of Collection: Nonrecurring.

General Description of Respondents: Project directors Head Start grant directors, centers directors, volunteers.

Estimated Number of Responses: 419.
Estimated Hours for All Respondents to Complete Form: 210.

Respondent's Obligation to Reply: Voluntary.

This is not a collection proposal under Sec. 3504(h) of the Paperwork Reduction Act.

II

Title of Form: RSVP Participant Impact Evaluation.

Office of ACTION Issuing Proposal: Evaluation Division, Office of Policy and Planning.

Agency Official to Contact for Further Information: Mel Beetle.

Type of Request: New.

Frequency of Collection: Three times in 24 months.

General Description of Respondents: Retired Senior Volunteer Program participants.

Estimated Number of Responses: 1800.
Estimated Hours of All Respondents to Complete Form: 1350.

Respondent's Obligation to Reply: Voluntary.

This is not a collection proposal under Sec. 3504(h) of the Paperwork Reduction Act.

Person responsible for OMB Review: James L. Thomas, 202-395-6880.

Richard D. English,

Deputy Assistant Director, ACTION.

[FR Doc. 82-15829 Filed 6-10-82; 8:45 am]

BILLING CODE 6050-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

Water Bank Program (WBP) Payments; Determination of Primary Purpose for Amounts That May Be Excluded From Income Under Section 126 of the Internal Revenue Code of 1954, as Amended

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Notice of Determination.

SUMMARY: The purpose of this notice is to announce the determination by the Secretary of Agriculture that certain Federal payments made to farmers under the Water Bank Program (WBP)

are deemed to have been made primarily for purposes of conserving soil and water resources, protecting or restoring the environment, improving forests, or providing a habitat for wildlife. This determination by the Secretary is made in accordance with Section 126(b) of the Internal Revenue Code of 1954 as amended by Section 543 of the Revenue Act of 1978 and the Technical Corrections Act of 1979. The effect of this determination is to make it possible for recipients of these payments to exclude some or all of such payments from gross income for Federal income tax purposes if certain other conditions are met.

FOR FURTHER INFORMATION CONTACT:

Director, Conservation and Environmental Protection Division, Agricultural Stabilization and Conservation Service, U.S.D.A., P.O. Box 2415, Washington, D.C. 20013, (202) 447-6221.

SUPPLEMENTARY INFORMATION: This action has been reviewed in accordance with Executive Order 12291 and Secretary's Memorandum No. 1512-1 and has been classified as "not major." It has been determined that these program provisions will not result in: (1) An annual effect on the economy of \$100 million or more; (2) major increases in costs or prices for consumers, 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 to compete with foreign-based enterprises in domestic or export markets.

The title and number of the Federal Assistance Program to which this notice applies are: Title—Water Bank Program; Number—10.062; as found in the Catalog of Federal Domestic Assistance. This action will not have a significant impact specifically on area and community development. Therefore, review as established by OMB Circular A-95 was not used to assure that units of local governments are informed of this action.

It has been determined that the Regulatory Flexibility Act is not applicable to this notice of determination since ASCS is not required to publish a notice of proposed rulemaking pursuant to 5 U.S.C. 553 or any other provision of law with respect

to the subject matter of this determination.

Section 126 of the Internal Revenue Code of 1954, as amended by the Revenue Act of 1978 and the Technical Corrections Act of 1979, provides that certain payments which are made to persons under conservation programs administered by the Department of Agriculture may be eligible for exclusion from gross income if certain determinations are made. One such determination involves the Secretary of Agriculture who must determine whether certain cost-share payments issued to persons under designated programs listed in Section 126(a) are "made primarily for the purpose of conserving soil and water resources, protecting or restoring the environment, improving forests, or providing a habitat for wildlife." In making any such determination, the Secretary of Agriculture must evaluate each of those designated programs based upon criteria set forth at 7 CFR Part 14.

One of the conservation programs listed in Section 126(a) is the Water Bank Program (WBP) which is authorized by the Water Bank Act, as amended (16 U.S.C. 1301 et seq.). This program is funded annually by agriculture appropriations acts.

The objective of the Water Bank Program is to preserve, restore, and improve the wetlands of the Nation, and thereby (1) to conserve surface waters, (2) to preserve and improve habitat for migratory waterfowl and other wildlife resources, (3) to reduce surface runoff, soil and wind erosion and contribute to flood control, (4) to contribute to improved water quality and reduce stream sedimentation, (5) to contribute to improved subsurface moisture, (6) to reduce acres of new land coming into production and to retire lands now in agricultural production, (7) to enhance the natural beauty of the landscape, and (8) to promote comprehensive and total water management planning.

Under the WBP, the Secretary is authorized to enter into agreements with landowners or operators to place certain eligible wetlands and adjacent areas in the program for ten year periods. Under such agreements, the landowner or operator agrees to maintain the character of the wetland area and not to use such area for agricultural purposes. In return, the Secretary is authorized by Section 5 of the Water Bank Act to make two distinct types of payments to landowners or operators. One such payment, which is an annual payment, is not the subject of this "primary purpose" determination. The other payment, which is the subject of this determination, is a cost-share payment

which is made by the Secretary to landowners and operators for the establishment and maintenance of conservation and development practices on wetlands and adjacent areas. Generally, cost-share assistance is provided by the Secretary for the performance of these conservation practices in accordance with WBP agreements entered into with landowners or operators if it is determined that such practices are necessary to achieve or maintain the WBP acreage as a viable waterfowl habitat. Cost-share payments are made to eligible producers under the program for the satisfactory installation of conservation practices developed primarily to accomplish one or more of the following:

(a) Establish long-lasting vegetative cover to protect the wetlands by conserving soil and water and providing migratory nesting cover.

(b) Benefit wildlife by providing shallow water areas and improved habitat.

(c) Conserve surface waters and contribute to flood control and improved subsurface moisture.

(d) Control soil erosion to contribute to improved water quality and soil conservation.

The WBP authorizing legislation, regulations, and operating procedures have been carefully examined using the criteria established by the Department of Agriculture under 7 CFR Part 14 for making "primary purpose" determinations with respect to payments which are identified in the applicable Water Bank agreement as cost-share payments. It has been concluded that these cost-share payments under the WBP are made for the purpose of providing financial assistance to landowners and operators for preserving, restoring and improving wetlands in important migratory waterfowl nesting and breeding areas and for other environmental enhancement measures. A "Water Bank Program (WBP) Record of Decision: Primary Purpose Determination for Federal Tax Purposes" has been prepared and is available upon request from the Conservation and Environmental Protection Division.

Determination

Therefore, I have determined that in accordance with Section 126(b)(1) of the Internal Revenue Code of 1954, as amended, all cost-share payments made for those conservation practices approved under the Water Bank Program after September 30, 1979, for the purpose of establishing and maintaining conservation and

development practices on wetlands and adjacent areas are made primarily for the purpose of conserving soil and water resources, protecting or restoring the environment, improving forests, or providing a habitat for wildlife.

Signed at Washington, D.C. on June 4, 1982.

John R. Block,

Secretary, U.S. Department of Agriculture.

Water Bank Program (WBP), Record of Decision, Primary Purpose Determination for Federal Tax Purposes

Introduction: The Secretary of Agriculture is authorized by Section 126 of the Internal Revenue Code of 1954, as amended (26 USC 126), to determine the primary purpose for which payments are made under certain Federal and State programs. The determination will identify the payments which recipients may exclude from their gross income for Federal tax purposes to the extent allowed by the Internal Revenue Service.

Basis for Determination: U.S. Department of Agriculture (USDA) determinations are made in accordance with 7 CFR Part 14 by reviewing authorizing legislation, regulations, and operating policy to identify the purpose for which payments are made. Final determinations are made on the basis of program, category of practices or practice and are published in the *Federal Register*.

Statement of Findings: The WBP is authorized by the Water Bank Act, as amended. It is funded by the Agriculture, Rural Development and Related Agencies Appropriations Act. The authorizing legislation provides that the purpose of the program is to preserve, restore and improve wetlands in important migratory waterfowl nesting and breeding areas and provide other environmental and agricultural benefits.

The objective of the Water Bank Program is to preserve, restore, and improve the wetlands of the Nation, and thereby (1) conserve surface waters, (2) preserve and improve habitat for migratory waterfowl and other wildlife resources, (3) reduce runoff, soil and wind erosion, (4) contribute to flood control, (5) contribute to improved water quality and reduce stream sedimentation, (6) contribute to improved subsurface moisture, (7) reduce acres of new land coming into production and to retire lands now in agricultural production, (8) enhance the natural beauty of the landscape, and (9) promote comprehensive and total water management planning.

The program is applicable in States and counties designated by the Deputy Administrator, State and County Operations (DASCO), ASCS, in consultation with the U.S. Fish and Wildlife Service, United States Department of the Interior.

Specified wetlands and adjacent lands identified for conservation of water or related uses in a conservation plan are developed in cooperation with the Soil and Water Conservation District in which the lands are located. A farm is eligible for participation in the program if at the time the request for an agreement is filed, land on the farm is not covered by a Water Bank Program agreement and the farm contains types 1 through 7 wetlands which are described in Circular 39, Wetlands of the United States, published by the United States Department of the Interior and which are further identified in a conservation plan.

There are two distinct types of payments (i.e. annual and cost-share) which are made by the Secretary of Agriculture to landowners and operators under the Water Bank Program. Annual payments are made to landowners or operators who enter into agreements with the Secretary to place certain wetlands and adjacent areas in the Water Bank Program for a period of ten years. These agreements may be extended for additional periods of ten years each. The Secretary is also authorized to make cost-share payments under the program to landowners or operators for the purpose of establishing and maintaining conservation and development practices on wetlands and adjacent areas.

Cost-share payments are made to eligible producers under the program for the satisfactory installation of conservation practices developed primarily to accomplish one or more of the following:

(a) Establishing long-lasting vegetative cover to protect the wetlands by conserving soil and water and providing migratory waterfowl nesting cover.

(b) Benefit wildlife by providing shallow water areas and improved habitat.

(c) Conserve surface waters and contribute to flood control and improved subsurface moisture.

(d) Control soil erosion to contribute to improved water quality and soil conservation.

The Secretary of the Treasury has indicated in a temporary regulation published by the Department of the Treasury at 46 FR 2736 that the annual payments made to landowners and operators under the WBP are rental

payments and, therefore, not excludable from gross income. Accordingly, no "primary purpose" determination is being made with respect to these payments at this time.

However, the cost-share payments which are made by the Secretary to landowners and operators under the program for the purpose of establishing and maintaining conservation and development practices on wetlands and adjacent areas have been determined to be the type of payments which are eligible for exclusion from gross income under the provisions of Section 126 of the Internal Revenue Code of 1954. Thus, the Secretary of Agriculture proposes to make a "primary purpose" determination with respect to these cost-share payments.

Determination: The primary purpose of cost-share payments made under the WBP to improve the habitat or the wetlands is for the purpose of conserving soil or water resources, protecting or restoring the environment, improving forests, or providing a habitat for wildlife.

[FR Doc. 82-15863 Filed 6-10-82; 6:45 am]

BILLING CODE 3410-05-M

Forest Service

Red River Wild and Scenic River Study, Daniel Boone National Forest, Menifee, Powell, and Wolfe Counties, Kentucky; Intent To Prepare an Environmental Impact Statement

The Department of Agriculture, Forest Service, will prepare an environmental impact statement for the study of the Red River on the Stanton Ranger District.

In accordance with the Wild and Scenic Rivers Act of 1968 as amended by the National Parks and Recreation Act of 1978, the Forest Service will study a segment of the Red River from Highway No. 746 (also known as Spradlin Bridge) in Wolfe County, Kentucky, downstream to the Menifee and Powell County line just downstream of the iron bridge where Kentucky Highway No. 77 passes over the river.

A range of alternatives will be developed and considered during the analysis process. A no action alternative, continue current management, will be formulated. Other alternatives will address the inclusion of portions of the Red River as a component of the national wild and scenic rivers system based on the eligibility and classification criteria as defined in the Wild and Scenic Rivers Act.

Federal, state and local agencies and other individuals or organizations who

may be interested in or affected by the decision will be invited to participate in the process. The initial scoping process has been completed on the Study Report and involved several public meetings with interested agencies and the public. Individual meetings were held with affected federal and state agencies. Additional public involvement sessions are tentatively planned after the draft environmental impact statement is released for public review.

The responsible official for the study and environmental impact statement is the Secretary of Agriculture, Washington, D.C.

The analysis is expected to take about one year to complete. The analysis is being conducted by Forest Supervisor Richard H. Wengert and his staff, Daniel Boone National Forest, 100 Vaught Road, Winchester, Kentucky 40391. The draft environmental impact statement should be available for public review by October 1982. The final environmental impact statement is scheduled to be completed by July 1983. Written comments and suggestions should be sent to the Forest Supervisor.

Questions about the proposed action and environmental impact statement should be directed to Robert Strosnider, Recreation Staff Officer, Daniel Boone National Forest, phone 606-744-5656.

Dated: May 28, 1982.

Douglas Leisz,
Acting Chief.

[FR Doc. 82-15889 Filed 6-10-82; 6:45 am]

BILLING CODE 3410-11-M

Rural Electrification Administration

Northern Michigan Electric Cooperative, Inc., Boyne City, Michigan; Proposed Loan Guarantee

Under the authority of Pub. L. 93-32 (87 Stat. 65), and in conformance with the applicable agency policies and procedures as set forth in REA Bulletin 20-22 (Guarantee of Loans for Bulk Power Supply Facilities), notice is hereby given that the Administrator of REA will consider providing a guarantee supported by the full faith and credit of the United States of America for a loan in the approximate amount of \$125,000,000 to Northern Michigan Electric Cooperative, Inc., (Northern) of Boyne City, Michigan. This loan guarantee will be used to provide supplemental funds needed to complete the financing of Northern's 11.22 percent undivided ownership interest in the Detroit Edison Company's Enrico Fermi No. 2 nuclear-powered 1100 MW generating unit.

Legally organized lending agencies capable of making, holding and servicing the loan proposed to be guaranteed may obtain information on the proposed program, including the engineering and economic feasibility studies and the proposed schedule for the advances to the borrower of the guaranteed loan funds from Mr. Clyde L. Johnson, Jr., Manager, Northern Michigan Electric Cooperative, Inc., P.O. Box 138, Boyne City, Michigan 49712.

In order to be considered, proposals must be submitted on or before July 12, 1982 to Mr. Johnson. The right is reserved to give such consideration and to make such evaluation or other disposition of all proposals received as Northern and REA deem appropriate. Prospective lenders are advised that the guaranteed financing for this project is available from the Federal Financing Bank under a standing agreement with the Rural Electrification Administration.

Copies of REA Bulletin 20-22 are available from the Public Information Office, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

This program is listed in the Catalog of Federal Domestic Assistance as 10.850—Rural Electrification Loans and Loan Guarantees.

Dated at Washington, D.C., this 28th day of May 1982.

Harold V. Hunter,
Administrator, Rural Electrification
Administration.

[FR Doc. 82-15661 Filed 6-10-82; 8:45 am]
BILLING CODE 3410-15-M

Wabash Valley Power Association, Inc., Indianapolis, Indiana; Proposed Loan Guarantee

Under the authority of Pub. L. 93-32 (87 Stat. 65), and in conformance with the applicable agency policies and procedures as set forth in REA Bulletin 20-22 (Guarantee of Loans for Bulk Power Supply Facilities), notice is hereby given that the Administrator of REA will consider providing a guarantee supported by the full faith and credit of the United States of America for a loan in the approximate amount of \$150,000,000 to Wabash Valley Power Association, Inc., (Wabash) of Indianapolis, Indiana. This loan guarantee will be used to finance a 25 percent undivided ownership interest in the Gibson No. 5 coal-fired generating unit being constructed by the Public Service Company of Indiana, Inc., (PSI) and to finance the purchase of an

additional 40 percent of 765 kV transmission line from PSI.

Legally organized lending agencies capable of making, holding and servicing the loan proposed to be guaranteed may obtain information on the proposed program, including the engineering and economic feasibility studies and the proposed schedule for the advances to the borrower of the guaranteed loan funds from Mr. Edward P. Martin, Manager, Wabash Valley Power Association, Inc., P.O. Box 24700, Indianapolis, Indiana 46224.

In order to be considered, proposals must be submitted on or before July 12, 1982 to Mr. Martin. The right is reserved to give such consideration and to make such evaluation or other disposition of all proposals received as Wabash and REA deem appropriate. Prospective lenders are advised that the guaranteed financing for this project is available from the Federal Financing Bank under a standing agreement with the Rural Electrification Administration.

Copies of REA Bulletin 20-22 are available from the Public Information Office, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

This program is listed in the Catalog of Federal Domestic Assistance as 10.850—Rural Electrification Loans and Loan Guarantees.

Dated at Washington, D.C., this 28th day of May, 1982.

Harold V. Hunter,
Administrator, Rural Electrification
Administration.

[FR Doc. 82-15662 Filed 6-10-82; 8:45 am]
BILLING CODE 3410-15-M

Soil Conservation Service

Allen Park Land Drainage RC&D Measure, Kentucky; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a Finding of No Significant Impact.

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Allen Park Land Drainage RC&D

Measure, Floyd County, Kentucky.

FOR FURTHER INFORMATION CONTACT: Eddie L. Wood, State Conservationist, Soil Conservation Service, 333 Waller Avenue, Lexington, KY 40504, telephone 606-233-2749.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Eddie L. Wood, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for 15 acres of land drainage, water disposal, and 2 acres of vegetative cover. The planned works of improvement include: open ditch drainage, 7750 feet of underground tile drainage, a grass waterway, a riprap outlet, and some land smoothing.

The Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, state, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Eddie L. Wood.

No administrative action on implementation of the proposal will be taken until July 12, 1982.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects if applicable)

Dated: June 1, 1982.

Eddie L. Wood,
State Conservationist.

[FR Doc. 82-15744 Filed 6-10-82; 8:45 am]
BILLING CODE 3410-16-M

Interlakes School RC&D Measure, New Hampshire; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a Finding of No Significant Impact.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40

CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Interlakes School RC&D Measure, Belknap County, New Hampshire.

FOR FURTHER INFORMATION CONTACT:

Richard L. Porter, State Conservationist, Soil Conservation Service, Federal Building, Box G, Durham, New Hampshire 03824, telephone 603-868-7581.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Richard L. Porter, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for critical area treatment. The planned works of improvement include grass and rock-lined waterways and diversions, subsurface drainage, and the establishment of erosion control vegetation.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Richard R. DeMark, District Conservationist, Soil Conservation Service, P.O. Box 581, Laconia, New Hampshire 03246.

No administrative action on implementation of the proposal will be taken until July 12, 1982.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: June 2, 1982.

Richard L. Porter,
State Conservationist.

[FR Doc. 82-15631 Filed 6-10-82; 8:45 am]

BILLING CODE 3410-16-M

Upper Piedmont Agricultural Research Station, RC&D Measure, North Carolina; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a Finding of No Significant Impact

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Upper Piedmont Agricultural Research Station, RC&D Measure, Rockingham County, North Carolina.

FOR FURTHER INFORMATION CONTACT:

Mr. Coy A. Garrett, State Conservationist, Soil Conservation Service, Room 544, Federal Building, 310 New Bern Avenue, Raleigh, North Carolina 27611, Telephone (919) 755-4210.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts of the environment. As a result of these findings, Mr. Coy A. Garrett, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns the stabilization of streambanks, the reduction of cropland erosion resulting from out of bank flows, and reduction of sedimentation. The planned works of improvement include the construction of a 300 foot long earth dike along the west side of a tributary of Wolf Island Creek.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Coy A. Garrett.

No administrative action on implementation of the proposal will be taken until July 12, 1982.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: June 3, 1982.

Coy A. Garrett,
State Conservationist.

[FR Doc. 82-15691 Filed 6-10-82; 8:45 am]

BILLING CODE 3410-16-M

CIVIL AERONAUTICS BOARD

[Order 82-6-41; Docket No. 40639]

Application of the Aeroamerica, Inc., for a Certificate of Public Convenience and Necessity

AGENCY: Civil Aeronautics Board.

ACTION: Notice of order instituting a fitness investigation of Aeroamerica, Inc., 82-6-41, Docket 40639.

SUMMARY: The Board is issuing an order instituting a fitness investigation of Aeroamerica, Inc.

DATES: Persons wishing to file requests for additional evidence or petitions to intervene in the *Aeroamerica Fitness Investigation* shall file their requests and petitions in Docket 40639 by June 23, 1982 and serve such filings on all persons listed below.

ADDRESSES: Requests for additional evidence and petitions to intervene should be filed in the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428, in Docket 40639.

In addition, copies of such filings should be served on the persons listed in the service list attached to this order.

Service will also be required on any other person filing petitions.

FOR FURTHER INFORMATION CONTACT: Phyllis C. Solomon, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, (202) 673-5340.

SUPPLEMENTARY INFORMATION: The complete text of Order 82-6-41 is available from our Distribution Section, Room 100, 1825 Connecticut Avenue, NW., Washington, D.C. Persons outside the metropolitan area may send a postcard request for Order 82-6-41 to the Distribution Section, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board, June 6, 1982.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 82-15651 Filed 6-10-82; 8:45 am]

BILLING CODE 6320-01-M

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q of the Board's Procedural Regulations; Week Ended June 4, 1982

Subpart Q Applications

The due date for answers, conforming application, or motions to modify scope are set for the below for each application. Following the answer period the Board may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings. (See 14 CFR 302.1701 et seq.)

Date filed	Docket No.	Description
June 3, 1982.....	40747	Emerald Air, Inc. d/b/a Emerald Airlines, c/o Benjamin P. Lamberton, Hewes, Morella & Gelband, 1010 Wisconsin Avenue, N.W., Suite 640, Washington, D.C. 20007. Application of Emerald Air, Inc. d/b/a Emerald Airlines pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations applies for expeditious issuance of a certificate authorizing it to engage in scheduled and charter carriage of persons, property and mail in interstate and overseas air transportation. Conforming Applications, motions to modify scope, and Answers may be filed by July 1, 1982.
June 4, 1982.....	39711	British Caledonian Airways Limited, c/o Leonard N. Bebchick, Martin, Whitfield, Smith & Bebchick, Suite 1102, 1701 Pennsylvania Avenue, N.W., Washington, D.C. 20006. Application of British Caledonian Airways Limited, pursuant to Section 402 of the Act and Subpart Q of the Board's Procedural Regulations requests an amendment of its foreign air carrier permit so as to add Los Angeles, California as an additional U.S. coterminal point on its existing Paragraph A route authorization. B. Cal will operate both scheduled and charter services over its Los Angeles route. Answers may be filed by July 2, 1982.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 82-15852 Filed 6-10-82; 8:45 am]

BILLING CODE 6320-01-M

[Order 82-6-39; Docket No. 40524]

Application of Independent Air Incorporated for a Charter Certificate

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order Instituting a Fitness Investigation of Independent Air Incorporated in Docket 49524 (Order 82-6-39).

SUMMARY: The Board is instituting an investigation to determine the fitness of Independent Air to engage in the interstate and overseas charter air transportation of persons, property and mail.

DATE: Persons wishing to file petitions for leave to intervene in the *Independent Air Incorporated Fitness Investigation* shall file their petitions in Docket 40524 by June 21, 1982 and shall serve such filings on all persons listed below.

ADDRESSES: Petitions for leave to intervene should be filed in Docket 40524 and should be addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

In addition, copies of such filings should be served on Independent Air Incorporated and on any other persons filing petitions.

FOR FURTHER INFORMATION CONTACT: Mr. Peter M. Bloch, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, (202) 673-5333.

SUPPLEMENTARY INFORMATION: The complete text of Order 82-6-39 is available from our Distribution Section, Room 100, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 82-6-39 to that address.

By the Civil Aeronautics Board, June 7, 1982.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 82-15953 Filed 6-10-82; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

Bureau of the Census

Cost Comparison Reviews Scheduled for Commercial or Industrial Activities Performed by Government Personnel in the Bureau of the Census

Notice is hereby given that the Bureau of the Census is postponing the start and completion dates of its scheduled cost comparisons for 6 months effective July 1, 1982. The cost comparisons were scheduled pursuant to Office of Management and Budget Circular A-76 and Department of Commerce Administrative Order 201-41 and were published in the *Federal Register* on July 31, 1980 (45 FR 50848).

FOR FURTHER INFORMATION CONTACT: William H. Sweeney, Bureau of the Census, Organization and Management

Systems Division, Washington, D.C. 20233, (301) 763-5897.

Dated: June 8, 1982.

Bruce Chapman,
Director, Bureau of the Census.

[FR Doc. 82-15835 Filed 6-10-82; 8:45 am]

BILLING CODE 3510-07-M

Foreign-Trade Zones Board

[Docket No. 14-82]

Proposed Foreign-Trade Zone and Subzones, Harris County, Tex. (Houston Port of Entry); Application and Public Hearing

Notice is hereby given that an application has been submitted to the Foreign-Trade Zones Board (the Board) by the Port of Houston Authority, a Texas public corporation, requesting authority to establish a foreign-trade zone in Harris County, Texas, within the Houston Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a-81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on June 3, 1982. The applicant is authorized to make this proposal under Chapter 109, Acts 1977, 65th Texas Legislature, May 4, 1977 (Article 14467, Vol. 3, Chapter 10 Vernon's Annotated Civil Statutes).

The proposed zone project would cover over 1600 acres on 32 sites within

the jurisdictional area of the Port Authority in Harris County, Texas. Fourteen sites totaling some 1000 acres would be available for public use. Two of the sites covers 351 acres in the Port Authority's Industrial Park West and Industrial Park East, with space available for firms requiring separate facilities. Three additional parcels owned by the Port Authority will be developed to accommodate container and bulk storage. The nine remaining public sites involve a public liquid bulk storage facility and six general-purpose public warehousing facilities owned and operated by seven different private firms.

Seven sites consisting of some 100 acres would be for the following private non-manufacturing operations: Applebaum and Co., importing and distributing commercial and industrial electronic products; Unibar/Uniminerals, Inc., manipulating crushed barytes ore; Texas Steel Conversion, forging and heat-treating oil-country tubular goods; Zakhem Overseas, repairing and reexporting heavy machinery; NYCO International, Inc. (two sites), blending lubricants; and Houston Export Crating Company, assembling custom shipping crates for exporting.

Eleven sites covering 450 acres are requested for the private manufacturing operations of 9 firms as follows: a site for the Cameron Iron Works, Oil Tools Division, which manufactures iron control and safety valves for oil field equipment; three sites for Porta-Kamp, Inc., which constructs prefabricated housing from steel, plywood and aluminum; a site for the Hughes Tool Company which produces drilling tools and equipment; and a site for Gasset Steel, Inc., which will manufacture steel gratings for industrial platforms; one for Gundle Lining Systems, which produces plastic liners; one for Adamson-Chronister Valves, Inc., which manufactures steel gate valves for pipelines; one for Koride Chemicals, which processes copper and organic compounds for pesticides; a site for C.E. American Pole Structures, Inc., which manufactures steel electric utility poles; and a site for Standco, which produces steel brake blocks and fasteners. The eighteen foregoing manufacturing and non-manufacturing private-use sites will be considered by the Board as separate requests for subzone status.

In accordance with the Board's regulations, an examiners committee has been appointed to investigate the application and report to the Board. The committee consists of: John J. Da Ponte, Jr., (Chairman), Director, Foreign-Trade

Zones Staff, U.S. Department of Commerce, Washington, D.C. 20230; Donald F. Kelly, Regional Commissioner, U.S. Customs Service, Region VI, 500 Dallas Street, Houston, Texas 77002; and Colonel Alan L. Laubscher, District Engineer, U.S. Army Engineer District Galveston, P.O. Box 1229, Galveston, Texas 77553.

As part of its investigation, the Examiners Committee will hold a public hearing on July 8, 1982, beginning at 9:00 a.m., in the Lecture Room of World Trade Building, 1520 Texas Avenue, Houston. The purpose of the hearing is to help inform interested parties about the proposal, to provide an opportunity for their expression of views, and to obtain information useful to the examiners.

Interested parties are invited to present their views at the hearing. They should notify the Board's Executive Secretary of their desire to be heard in writing at the address below or by phone (202/377-2862) by July 2. Instead of an oral presentation, written statements may be submitted in accordance with the Board's regulations to the examiners committee, care of the Executive Secretary, at any time from the date of this notice through August 9, 1982. Evidence submitted during the post-hearing is not desired unless it is clearly shown that the matter is new and material and that there are good reasons why it could not be presented at the hearing. A copy of the application and accompanying exhibits will be available during this time for public inspection at each of the following locations:

Office of the Director, U.S. Department of Commerce District Office, 2625 Federal Building, 515 Rusk Street, Houston, Texas 77002

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 3721, 14th and Constitution Ave., NW., Washington, D.C. 20230.

Dated: June 8, 1982.

John J. Da Ponte, Jr.,
Executive Secretary.

[FR Doc. 82-15878 Filed 6-10-82; 8:45 am]

BILLING CODE 3510-25-M

International Trade Administration

Animal Glue and Inedible Gelatin From Yugoslavia; Final Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of final results of administrative review of antidumping finding.

SUMMARY: On November 19, 1981, the Department of Commerce published the preliminary results of its administrative review of the antidumping finding on animal glue and inedible gelatin from Yugoslavia. The review covered the two known exporters of this merchandise to the United States, Kemija-Impex and HP Kolinska (Kemin), and separate time periods for each through November 30, 1980.

Interested parties were given an opportunity to submit oral or written comments, and a public hearing was conducted on December 18, 1981. As a result of this hearing and our analysis of pre-hearing and post-hearing briefs, our preliminary results of review remain unchanged.

EFFECTIVE DATE: June 11, 1982.

FOR FURTHER INFORMATION CONTACT: Betty H. Laxague or John R. Kugelman, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202-377-3601).

SUPPLEMENTARY INFORMATION:

Background

On December 22, 1977, an antidumping finding with respect to animal glue and inedible gelatin from Yugoslavia was published in the *Federal Register* as Treasury Decision 78-4 (42 FR 64116-7). On November 19, 1981, the Department of Commerce ("the Department") published in the *Federal Register* the preliminary results of its administrative review of the finding (46 FR 56838-9). The Department has now completed that administrative review.

Scope of the Review

Imports covered by the review are shipments of animal glue and inedible gelatin, of which there are two principal types, hide glue and bone glue. Animal glue is an organic colloid of protein derivation. There is no significant difference between animal glue and inedible gelatin. Animal glues are odorless, dry, hard, hornlike materials. They are used as general purpose adhesives in industries producing abrasives, paper containers, book and magazine bindings, and leather goods. They are also used as sizing agents, as an essential part of many compositions, and as colloids in emulsions and cleaning compounds. Animal glue and inedible gelatin are currently classifiable under items 455.4000 and 455.4200 of the Tariff Schedules of the United States Annotated (TSUSA).

The Department knows of two Yugoslavian exporters of this merchandise to the United States, HP Kolinska (Kemin) and Kemija-Impex. This review covers separate time periods for each through November 30, 1980.

Analysis of Comments Received

Interested parties were given an opportunity to submit oral or written comments on the preliminary results. At the request of domestic producers, the Department held a hearing on December 18, 1981.

(1) *Comment:* The domestic parties argued that the Department should request cost of production information from Kemin for its period of review. Home market price decreases, despite significant domestic inflation, raise the likelihood of sales below the cost of production.

Position: Actual home market price information on hand shows that such prices actually increased significantly. These price increases kept pace with inflation and with increased costs of production of this merchandise. There is insufficient evidence to warrant a cost of production investigation.

(2) *Comment:* The domestic parties argued that the Department should verify the information which was submitted by Kemin.

Position: In the conduct of a section 751 review the Department has the discretion to determine on a case-by-case and company-by-company basis when verification is warranted. In this case the Department believes the information submitted by the respondent is accurate and complete. Therefore verification is unnecessary.

(3) *Comment:* The domestic parties argued that Kemija-Impex is dumping animal glue in the United States at margins much higher than the 9.7% margin calculated during the original fair value investigation. If the Department uses the fair value margin as best evidence for this non-responsive firm, it should take into account subsequent inflation.

Position: The domestic parties' assertion does raise a significant question concerning the impact of home market inflation. However, the Department examined the possibility and found no evidence that the margin would be higher than the 9.7% fair value margin if actual price information was available from Kemija-Impex. Since we had no information on Kemija-Impex's home market sales, we compared its actual prices to the U.S. (as evidenced from Customs Form 6432) with Kemin's sales in the home market of similar merchandise in the same month and

found no margin. Since we never had any information from Kemija-Impex, we used Kemin's fair value rate of 9.7% as the best information available.

(4) *Comment:* The domestic parties questioned whether Kemija-Impex is the only remaining active exporter of Yugoslav animal glue to the United States. Census Bureau data indicate much larger quantities of this merchandise shipped to the United States from Yugoslavia during 1979 and 1980 than accounted for by Kemin and arguably by Kemija-Impex.

Position: We have no evidence of any exporters of Yugoslav animal glue to the United States other than Kemija-Impex and Kemin during the periods reviewed. Further, the Department has reviewed relevant Customs records and is satisfied that the Department has covered all shipments during the periods of review.

(5) *Comment:* The domestic parties noted that there is no record in the public file indicating either the identity of the different grades sold by Kemin in either market or the prices of the different grades.

Position: The Department has now included information in the public file concerning the various grades of this merchandise. Counsel for the domestic producers could have had access to this information under administrative protective order.

(6) *Comment:* The importer of such glue from Kemija-Impex stated that (a) since it bought on a long-term basis, there is no need for an inflation adjustment to the fair value rate of 9.7%; (b) since Kemija-Impex had no domestic sales the importer should not be penalized for failure to supply information; (c) it paid prices substantially in excess of home market prices, based on the petitioner's data regarding Kemin.

Position: As for (a), there is no need for an inflation adjustment; see our position in response to Comment #3. Since we received no response from Kemija-Impex we are unable to affirm (b) or (c).

(7) *Comment:* The importer of such glue from Kemija-Impex stated that since animal glue prices in Yugoslavia are fixed by the state it is appropriate to use a third country's prices to determine whether the 9.7% margin is appropriate.

Position: In this case the Department does not consider, and has not considered since the original investigation, Yugoslavia to be a state-controlled economy. For comparison purposes, therefore, home market prices are appropriate.

Final Results of the Review

As a result of our analysis of these comments, the final results of our review are the same as those presented in our preliminary results of review, and we determine that the following weighted-average margins exist:

Exporter	Time period	Margin (percent)
HP Kolinska (Kemin).....	1/1/79-11/30/80	0
Kemija-Impex	1/4/77-11/30/80	9.7

The Department shall determine, and the U.S. Customs Service shall assess, antidumping duties on all appropriate entries made by these firms with purchase dates during the periods involved. The Department will issue assessment instructions on each exporter directly to the Customs Service.

Further, as provided for by § 353.48(b) of the Commerce regulations, a cash deposit of estimated antidumping duties based on the margins above shall be required on all shipments by these firms of animal glue and inedible gelatin from Yugoslavia entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. For any shipment from a new exporter not covered in this review, unrelated to any covered firm, a cash deposit shall be required at the highest rate for responding firms with shipments during the most recent period in which shipments occurred. These deposit requirements shall remain in effect until publication of the final results of the next administrative review. The Department intends to conduct the next administrative review by the end of December 1982.

The Department encourages interested parties to review the public record and submit applications for protective orders, if desired, as early as possible during the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act of 1930 (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce regulations (19 CFR 353.53).

Gary N. Horlick,
Deputy Assistant Secretary for Import Administration.

[FR Doc. 82-15871 Filed 6-10-82; 8:45 am]

BILLING CODE 3510-25-M

Certain Stainless Steel Products From Spain; Postponements of Preliminary Countervailing Duty Determinations

AGENCY: International Trade Administration Commerce.

ACTION: Postponements of Preliminary Countervailing Duty Determinations.

SUMMARY: The preliminary determinations of certain stainless steel products (see Appendix A) from Spain are being postponed, and we intend to issue these determinations not later than August 23, 1982.

EFFECTIVE DATE: June 11, 1982.

FOR FURTHER INFORMATION CONTACT: Holly Kuga, Office of Investigations, Import Administration, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230, telephone (202) 377-0171.

SUPPLEMENTARY INFORMATION: On March 10, 1982, we announced initiations of countervailing duty investigations under section 303 of the Tariff Act of 1930, as amended (the "Act"), to determine whether the government of Spain is giving its producers and exporters of certain stainless steel products certain benefits that constitute bounties or grants (47 FR 10268). The notice stated that we would issue preliminary determinations by May 13, 1982.

On April 14, 1982, the U.S. Trade Representative's office announced that Spain was a "country under the Agreement" as set out in section 701(b) of the Act. As a result of this announcement, Title VII applies to all countervailing duty investigations concerning merchandise from Spain. Accordingly, on April 29, 1982, we published a notice in the *Federal Register* (47 FR 18401) that we were terminating the investigations begun on March 10, 1982 under section 303 and were initiating investigations under Title VII of the Act as of April 14, 1982. Without postponements the preliminary determinations in these investigations would be due no later than June 18, 1982. Since Spain is a "country under the Agreement," an injury determination is required. Therefore we notified the U.S. International Trade Commission ("ITC") of these initiations. On June 2, 1982, the ITC preliminarily determined that there is a reasonable indication that these imports are materially injuring a U.S. industry.

As detailed in the original notice of "Initiation of the Countervailing Duty Investigations," the petition alleges that the government of Spain provides various bounties or grants to producers and exporters of certain stainless steel products. The practices alleged to be bounties or grants are numerous and raise complex issues. Moreover, it is difficult to determine the extent of utilization of the programs by the various firms. We have determined that the Spanish government and the other

parties concerned are cooperating and that additional time is necessary to make the preliminary determinations. For these reasons we determine that these cases are extraordinarily complicated in accordance with section 703(c)(1)(B) of the Act. The preliminary determinations are therefore postponed. We will issue them not later than August 23, 1982.

This notice is published pursuant to section 703(c)(2) of the Act.

Dated: June 17, 1982.

Gary Horlick,
Deputy Assistant Secretary for Import Administration.

APPENDIX A.—CERTAIN STAINLESS STEEL PRODUCTS

Country	Products
Spain	Stainless steel wire rod, hot-rolled stainless steel bars and cold-formed stainless steel bars.

[FR Doc. 82-15873 Filed 6-10-82; 8:45 am]

BILLING CODE 3510-25-M

Certain Steel Products From Spain; Postponements of Preliminary Countervailing Duty Determinations

AGENCY: International Trade Administration, Commerce.

ACTION: Postponements of Preliminary Countervailing Duty Determinations.

SUMMARY: The preliminary determinations of certain steel products (see Appendix A) from Spain are being postponed, and we intend to issue these determinations not later than August 23, 1982.

EFFECTIVE DATE: June 11, 1982.

FOR FURTHER INFORMATION CONTACT: Holly Kuga, Office of Investigations, Import Administration, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230, telephone: (202) 377-0171.

SUPPLEMENTARY INFORMATION: On February 8, 1982, we announced initiations of countervailing duty investigations under section 303 of the Tariff Act of 1930, as amended (the "Act"), to determine whether the government of Spain is giving its producers and exporters of certain steel products certain benefits that constitute bounties or grants (47 FR 5753).

On April 14, 1982, the U.S. Trade Representative's office announced that Spain was a "country under the Agreement" as set out in section 701(b) of the Act. As a result of this announcement, Title VII applies to all countervailing duty investigations concerning merchandise from Spain.

Accordingly, on April 29, 1982, we published a notice in the *Federal Register* (47 FR 18402) that we were terminating the investigations begun on February 8, 1982, under section 303 and were initiating investigations under Title VII of the Act as of April 14, 1982. Without postponements the preliminary determinations in these investigations would be due not later than June 18, 1982. Since Spain is a "country under the Agreement," an injury determination is required. Therefore we notified the U.S. International Commission ("ITC") of these initiations. On June 2, 1982, the ITC preliminarily determined that there is a reasonable indication that these imports are materially injuring a U.S. industry.

As detailed in the original notice of "Initiation of the Countervailing Duty Investigations," the petitions allege that the government of Spain provides various bounties or grants to producers and exporters of certain steel products.

The practices alleged to be bounties or grants are numerous and raise complex issues. Moreover, it is difficult to determine the extent of utilization of the programs by the various firms. We have determined that the Spanish government and the other parties concerned are cooperating and that additional time is necessary to make the preliminary determinations. For these reasons we determine that these cases are extraordinarily complicated in accordance with section 703(c)(1)(B) of the Act. The preliminary determinations are therefore postponed. We will issue them not later than August 23, 1982.

This notice is published pursuant to section 703(c)(2) of the Act.

Dated: June 7, 1982.

Gary Horlick,
Deputy Assistant Secretary for Import Administration.

APPENDIX A.—CERTAIN STEEL PRODUCTS

Country	Products
Spain	Carbon steel structural shapes, hot-rolled carbon steel plate, cold-rolled carbon steel sheet and strip, galvanized carbon steel sheet, hot-rolled carbon steel bars, and cold-formed carbon steel bars.

[FR Doc. 82-15872 Filed 6-10-82; 8:45 am]

BILLING CODE 3510-25-M

Sugar and Syrups From Canada; Final Results of Administrative Review of Antidumping Duty Order

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of final results of administrative review of antidumping duty order.

SUMMARY: On April 12, 1982, the Department of Commerce published the preliminary results of its administrative review of the antidumping duty order on sugar and syrups from Canada. The review covered the seven known exporters of this merchandise to the United States and separate time periods for each through March 31, 1981.

Interested parties were given an opportunity to submit oral or written comments. One non-responsive firm submitted a questionnaire response. Based on our policy not to consider a response received after the preliminary results have been published, our results of review remain unchanged.

EFFECTIVE DATE: June 11, 1982.

FOR FURTHER INFORMATION CONTACT: Betty H. Laxague or John R. Kugelmann, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202-377-3601).

SUPPLEMENTARY INFORMATION:

Background

On April 9, 1980, an antidumping duty order with respect to sugar and syrups from Canada was published in the *Federal Register* (45 FR 24126-7). On April 12, 1982, the Department of Commerce ("the Department") published in the *Federal Register* the preliminary results of its administrative review of the order (47 FR 15621-2). The Department has now completed that administrative review.

Scope of the Review

Imports covered by the review are shipments of sugar and syrups produced from raw sugar derived from sugar cane and sugar beets. The sugar is refined into granulated or powdered sugar, icing, or liquid sugar. Sugar and syrups are currently classifiable under items 155.2025, 155.2045, and 155.3000 of the Tariff Schedules of the United States Annotated (TSUSA).

The Department knows of seven Canadian exporters of this merchandise to the United States. This review covers separate time periods for each through March 31, 1981.

Analysis of Comments Received

Interested parties were given an opportunity to submit oral or written comments on the preliminary results. One non-responsive firm, Scott Paper Co., Ltd., submitted a questionnaire response. It is the Department's policy not to consider a response received after

the preliminary results have been published. Therefore, we did not use the response. No further comments were received.

Final Results of the Review

Since the submitted response was untimely, the final results of our review are the same as those presented in our preliminary results of review, and we determine that the following weighted-average margins exist:

Canadian exporter	Time period	Margin
Atlantic Sugar, Ltd.	4/1/80-3/31/81	U.S. \$0.0223 per lb. ¹
B. C. Sugar.....	4/1/80-3/31/81	U.S. \$0.010105 per lb. ¹
F. W. Jones & Son.	4/1/80-3/31/81	0.367 pct.
Lentzco Ltd.....	11/3/79-3/31/81	17.33 pct.
Redpath Sugars Ltd.	4/1/80-3/31/81	17.33 pct.
Scott Paper Co., Ltd.	4/9/80-3/31/81	17.33 pct.
St. Lawrence Sugar, Ltd.	4/1/80-3/31/81	17.33 pct.

¹No shipments during the period.

The Department shall determine, and the U.S. Customs Service shall assess, duties on all appropriate entries made by these firms with purchase dates during the periods involved. Individual differences between United States price and foreign market value may vary from the percentages stated above. The Department will issue assessment instructions on each exporter directly to the Customs Service.

Further, as provided for by § 353.48(b) of the Commerce Regulations, a cash deposit of estimated antidumping duties based on the margins calculated above shall be required on all shipments by these firms of sugar and syrups from Canada entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. Since the margin for F. W. Jones & Son is less than 0.5 percent and therefore *de minimis*, the Department is waiving the deposit requirement for this firm. For any shipment from a new exporter not covered in this review, unrelated to any covered firm, a cash deposit shall be required at the highest rate for responding firms with shipments during the most recent period in which shipments occurred. These deposit requirements and waiver shall remain in effect until publication of the final results of the next administrative review. The Department intends to conduct the next administrative review by the end of April 1983.

The Department encourages interested parties to review the public record and submit applications for protective orders, if desired, as early as

possible during the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act of 1930 (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce regulations (19 CFR 353.53).

Gary N. Horlick,
Deputy Assistant Secretary for Import Administration.

[FR Doc. 82-15870 Filed 6-10-82; 8:45 am]

BILLING CODE 3510-25-M

Consolidated Decision on Applications for Duty-Free Entry of Accessories for Foreign Instruments; Duke University, et al.

The following is a consolidated decision on applications for duty-free entry of accessories for foreign instruments pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301). (See especially § 301.11(e).)

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review between 8:30 a.m. and 5:00 p.m. in Room 2097 of the Department of Commerce Building, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No. 82-00063. Applicant: Duke University, Department of Zoology, Durham, NC 27706. Article: 340789 Goniometer for Electron Microscope. Manufacturer: Carl Zeiss, West Germany. Intended use of article: See Notice on page 9259 in the *Federal Register* of March 4, 1982. Advice submitted by: Department of Health and Human Services: April 1, 1982.

Docket No. 82-00034. Applicant: University of Chicago, Operator of Argonne National Laboratory, 9700 South Cass Avenue, Chicago, IL 60439. Article: Magnetic Specimen Observation Device for Electron Microscope. Manufacturer: JEOL Ltd., Japan. Intended use of article: See Notice on page 60045 in the *Federal Register* of December 8, 1981. Advice submitted by: Department of Health and Human Services: March 17, 1982.

Comments: No comments have been received with respect to either of the foregoing applications.

Decision: Applications approved. No instrument or apparatus of equivalent scientific value to the foreign articles, for the purposes for which the articles are intended to be used, is being manufactured in the United States.

Reasons: The applications relate to compatible accessories for instruments that have been previously imported for the use of the applicant institutions. The articles are being manufactured by the manufacturers which produced the instruments with which they are intended to be used. We are advised by Department of Health and Human Services in its respectively cited memoranda that the accessories are pertinent to the applicant's intended uses and that it knows of no comparable domestic articles.

The Department of Commerce knows of no similar accessories being manufactured in the United States, which are interchangeable with or can be readily adapted to the instruments with which the foreign articles are intended to be used.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 82-15874 Filed 6-10-82; 8:45 am]

BILLING CODE 3510-25-M

Applications for Duty-Free Entry of Scientific Articles; University of Chicago et al.

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230, within 20 calendar days after the date on which this notice of application is published in the Federal Register.

Regulations (15 CFR 301.9) issued under the cited Act prescribe the requirements for comments.

A copy of each application is on file, and may be examined between 8:30 A.M. and 5:00 P.M., Monday through Friday, in Room 2097 of the Department of Commerce Building, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No. 82-00180. Applicant: University of Chicago, Operator of Argonne National Laboratory, 9700 South Cass Avenue, Argonne, IL 60439.

Article: Gas Chromatograph Mass Spectrometer, Model MS-25.

Manufacturer: Kratos Scientific Instruments, United Kingdom. Intended Use of article: The article is intended to be used for the study of a variety of reaction products derived from selective degradation of coals and other fossil fuels such as oil shales. Most of the experiments involve GCMS analysis of products from oxidations, reductions and pyrolysis of coals and oil shales. The gas inlet will be used for characterization of gases produced in these reactions and the batch inlet will be used for products which are too non-volatile for elution through a gas chromatograph. The data will be analyzed by the data system which operates the instrument. Further refinement will be made using the large computer facilities at Argonne including the use of factor analysis.

Application Received by Commissioner of Customs: May 3, 1982.

Docket No. 82-00181. Applicant: University of Illinois, Urbana-Champaign Campus, Purchasing Division, 223 Administration Building, 506 South Wright Street, Urbana, IL 61801. Article: Dye Laser-Excimer Laser Pumped, FL 2000. Manufacturer: Lambda Physik GmbH & Co., West Germany. Intended use of article: The article is intended to be used for the following experiments:

- (1) Multi-photon excitation of the rare gas atoms and xenon, in particular.
- (2) Laser-induced collisional transfer studies in metal vapors.
- (3) Laser-induced fluorescence studies of photofragments produced by ultraviolet (UV) photodissociation of polyatomic molecules. Graduate students working towards the Ph.D. degree in either electrical Engineering or Physics will use the article as part of their thesis research. Application Received by Commissioner of Customs: May 3, 1982.

Docket No. 82-00184. Applicant: University of Illinois, Purchasing Division, 223 Administration Building, 506 South Wright Street, Urbana, Illinois 61801. Article: Excimer Pumped Dye Laser System consisting of EMG FL 2002 and FL 52. Manufacturer: Lambda Physik GmbH & Co., West Germany. Intended use of article: The article is intended to be used for continued study of the quantum beat spectroscopy (QBS) of the dicarbonyls, benzoquinone, and other polyatomic molecules including formaldehyde, acetaldehyde, and benzaldehyde, etc. and the study of angular distributions and energy partitioning associated with photodissociations of organic molecules using laser induced fluorescence (LIF)

from fragments excited to selected single rovibronic states. This research includes hydrogen peroxide, cyanogen, the halocyanogens, simple mono and dicarbonyls, and van der Waals molecules. The objectives of this research include assessing the possibility of bond/state selective chemistry through the study of the distributions of intramolecular coupling elements and by finding and studying non-statistical energy selected angular distribution functions. There are a number of other important aspects of the program involving high resolution spectroscopy, Zeeman effect, and optimization of a tunable infrared laser system that relate, if only indirectly, to the purchase of this laser system. For all the proposed experiments, the article will be used to either generate photoproducts or produce laser induced fluorescence from isolated molecules. In addition, the article will be used in the course Chemistry 499, Ph.D. Thesis Research for the training of students in the general techniques of laser molecular beam spectroscopy with particular emphasis on the study of the photophysics and chemistry of isolated molecules. Application received by Commissioner of Customs: May 3, 1982.

Docket No. 82-00185. Applicant: The Rockefeller University, 1230 York Avenue, New York, N.Y. 10021. Article: Incubators, Feedback Controlled to maintain PO₂ and PCO₂ and pH. Manufacturer: Heraeus, West Germany. Intended use of article: The article is intended to be used in the exploration of the biological basis of oxygen toxicity. This will involve culturing human diploid fibroblasts under defined partial pressures of oxygen (PO₂) and determining if oxygen or oxygen-induced free radicals can cause DNA damage; disturb intracytoplasmic energy and reduce equivalent metabolism; and promote membrane lipid peroxidation in the intact cell. Researchers will also explore the regulation of cellular antioxidant defense mechanisms and the capacity of the cell to respond to an oxidative stress. Application received by Commissioner of Customs: May 3, 1982.

Docket No. 82-00191. Applicant: Monsanto Research Corporation, Mound Facility, Operated for the U.S. Dept. of Energy, Mound Road, Miamisburg, OH 45342. Article: Two (2) Mass Spectrometers, MM 3001. Manufacturer: VG Instruments, United Kingdom. Intended use of article: The articles are intended to be used to measure isotopes of hydrogen (H, D, T) and helium (³He, ⁴He) and impurities (N₂, O₂, Ar, CO₂, CO) methanes (CH₄D, T₂) and waters

(H₂O)...DTO...T₂O) in mixtures resulting from classified process development efforts. Experiments to be conducted are the calibration of the mass spectrometer using Mound-prepared D/T³He standards followed by analysis of unknown samples generated by process development experiments. The objective of these analyses are to accurately determine H, D, T, ³He, and impurity composition in samples required for qualifying the performance of a classified process. Application received by Commissioner of Customs: May 10, 1982.

Docket No. 82-00194 Applicant: Masters, Mates & Pilots MATES Program, 5700 Hammonds Ferry Road, Linthicum Heights, MD 21090. Article: Radar Navigational Aid Apparatus. Manufacturer: Vereinigte Flugtechnische Werke (VFW), West Germany. Intended use of article: The article is intended to be used for studies of several navigational phenomena, including "squat", the increase in the draft of a vessel due to configuration, speed and water depth; the forces known as "bank suction" which tend to draw a vessel in a channel or other confined waters toward a nearby bank; those forces known as "bank cushion" which tend to repel a vessel from a bank; and the hydrodynamic properties of various hull forms, rudder forces, and propeller forces in fluid mediums under varying conditions. The article will also be used for educational purposes in a course designated as "The Shiphandling Course." Application received by Commissioner of Customs: May 10, 1982.

Docket No. 82-00195 Applicant: University of Illinois, Urbana-Champaign Campus, Purchasing Division, 223 Administration Building, 506 South Wright Street, Urbana, IL 61801. Article: Replacement Console for MS-902 Mass Spectrometer. Manufacturer: VG Analytical, Ltd., United Kingdom. Intended use of article: The article is intended to be used in a program of polymer characterization by Electrohydrodynamic Ionization Mass Spectrometry (EHMS). EHMS is an analytical method for determining the composition of ionic solutions by extracting ions from solution and determining their masses. The technique is especially well-suited for investigating samples which are soluble but nonvolatile and/or thermally labile, because virtually no excess internal energy is imparted to the sample ions. Application received by Commissioner of Customs: May 10, 1982.

Docket No. 82-00201. Applicant: UMDNJ-New Jersey School of Osteopathic Medicine, Department of

Osteopathic Sciences, P.O. Box 55, Piscataway, NJ 08854. Article: Particle Electrophoresis Apparatus. Manufacturer: Rank Brothers—Scientific Instrument Division, United Kingdom. Intended use of article: The article is intended to be used for measuring the surface charge properties of bone particles in different pH solutions. Application received by Commissioner of Customs: May 10, 1982.

Docket No. 82-00209. Applicant: Sandia National Laboratories, Division 2516, P.O. Box 5800, Albuquerque, NM 87185. Article: ESCALAB 5 Spectrometer. Manufacturer: VG Scientific Limited, United Kingdom. Intended use of article: The article is intended to be used for the following studies of surface chemistry and physics of explosives and pyrotechnic materials:

I. Pyrotechnics

A. Single component behavior will be studied with emphasis on the oxidation and thin oxide dissolution of current and proposed pyrotechnic fuels (B, Ti, TiH_x, Zr, ZrH₂) as well as the reduction of pyrotechnic oxidants (KClO₄, CaCrO₄, NH₄ClO₄, NH₄NO₃, KNO₃).

B. Characterization of pyrotechnic compositions will be undertaken to determine the influence of production processes on surface composition. The mechanism of thermal ignition in pyrotechnic systems will be characterized as well as the influence of surface composition and properties on pyrotechnic behavior (spark sensitivity, ignition sensitivity, RAF, burn rate).

C. Compatibility and aging studies to allow measurement of the uptake, interaction, and thermal desorption of H₂ from pyrotechnic mixtures to complement TDS data from a new system which is currently under construction. In addition the interaction of other reactive gases (such as those released during the aging of HE) with pyrotechnic constituents will be examined. The compatibility of pyrotechnics and HE at pellet interfaces and the corrosion of materials used to contain pyrotechnic and HE compositions are of further interest.

II. High Explosives

A. Valence band data is needed to corroborate molecular orbital calculations of HE which are currently in progress.

B. The detection of ion and free radical fragments from photon and electron stimulated desorption as well as inert ion sputtering of HE samples is necessary for experimental verification of emerging models of the shock initiation process.

C. Interaction of reactive gases (produced during aging or thermal decomposition of HE) with component materials (bridgewire, glass ceramic, alloys, epoxies, etc.) will be studied.

Application received by Commissioner of Customs: May 11, 1982.

Docket No. 82-00213. Applicant: University of Arizona, Department of Geosciences, Geology Building Room 108, Tucson, AZ 85721. Article: VG ISOMASS 54E MkII Thermal Ionization Mass Spectrometer. Manufacturer: VG Instruments Inc., United Kingdom. Intended use of article: The article will be used in teaching and research efforts dealing with studies directed toward elucidating the origin and evolution of terrestrial and extraterrestrial samples over the history of the earth and the solar system. The measurements to be made will vary at the level of the current state of the art of the instrumentation and the mass spectrometer must meet the minimum level of performance in precision. Investigations that will be undertaken include studies of samples to resolve temporal problems in the Precambrian of the southwest United States, considerations of secular change in continents, examination of the nature and origin of materials that make up the solar system, studies to establish precise dates on the early events at the beginning of the solar system and measurements of the abundances of rare earths. Application received by Commissioner of Customs: May 11, 1982.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 82-15875 Filed 6-10-82; 8:45 am]

BILLING CODE 3510-25-M

[Case No. 628]

Order Temporarily Denying Export Privileges

In the matter of: Ingenieria y Desarrollo Industrial, S.A., Guzman el Bueno, 121 and 133, Parque de las Naciones, Edificio Britannia, Madrid 3, Spain.

The Department of Commerce (the "Department"), pursuant to the provisions of § 388.19 of the Export Administration Regulations (15 CFR 368, *et seq.* (1981)) (the "Regulations"), has petitioned the Hearing Commissioner for an order temporarily denying all export privileges to Ingenieria y Desarrollo Industrial, S.A. ("INDEIN").

The Department states that INDEIN is under investigation by the Department's

Office of Export Compliance. The Department states further that its investigation gives it reason to believe:

(i) That INDEIN has engaged in a scheme to procure United States-origin goods for use in, for, or by Cuba; (ii) that, in carrying out certain transactions, INDEIN has reexported U.S.-origin commodities contrary to the Regulations; and (iii) that INDEIN may attempt future reexports to the Regulations unless appropriate action is taken to preclude such attempts.

Based upon the showing made by the Department, I find that an order temporarily denying all export privileges to INDEIN is required in the public interest to facilitate enforcement of the Export Administration Act of 1979, as amended (50 U.S.C. app. 2401, *et seq.* (Supp. III 1979)), and the Regulations and to permit completion of the Department's investigation.

Anybody who is now or may in the future be dealing with the above-named respondent in transactions that in any way involve U.S.-origin commodities or technical data is specifically alerted to the provisions set forth in Paragraph IV below.

Accordingly, it is hereby ordered:

I. All outstanding validated export licenses in which respondent appears or participates, in any manner or capacity, are hereby revoked and shall be returned forthwith to the Office of Export Administration for cancellation.

II. The respondent, its successors or assignees, officers, partners, representatives, agents, and employees hereby are denied all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction involving commodities or technical data exported from the United States in whole or in part, or to be exported, or that are otherwise subject to the Regulations. Without limitation of the generality of the foregoing, participation prohibited in any such transaction, either in the United States or abroad, shall include participation, directly or indirectly, in any manner or capacity, (a) as a party or as a representative of a party to a validated export license application, (b) in the preparation or filing of any export license application or reexportation authorization, or of any document to be submitted therewith, (c) in the obtaining or using of any validated or general export license or other export control document, (d) in the carrying on of negotiations with respect to, or in the receiving, ordering, buying, selling, delivering, storing, using, or disposing of any commodities or technical data in whole or in part, exported or to be exported from the United States, and (e)

in the financing, forwarding, transporting, or other servicing of such commodities or technical data.

III. Such denial of export privileges shall extend not only to the respondent, but also to its agents and employees and to any successor and to any person, firm, corporation, or business organization with which it now or hereafter may be related by affiliation, ownership, control, position of responsibility, or other connection in the conduct of trade or services related thereto.

IV. No person, firm, corporation, partnership or other business organization, whether in the United States or elsewhere, without prior disclosure to and specific authorization from the Office of Export Administration, shall do any of the following acts, directly or indirectly, or carry on negotiations with respect thereto, in any manner or capacity, on behalf of or in any association with any named respondent or related party, or whereby any named respondent or related party may obtain any benefit therefrom or have any interest or participation therein, directly or indirectly: (a) Apply for, obtain, transfer, or use any license, Shipper's Export Declaration, bill of lading, or other export control document relating to any exportation, reexportation, transshipment, or diversion of any commodity or technical data exported or to be exported from the United States, by, to, or for any named respondent or related party denied export privileges; or (b) order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance, or otherwise service or participate in any exportation, reexportation, transshipment, or diversion of any commodity or technical data exported or to be exported from the United States.

V. In accordance with the provisions of § 388.19(b) of the Regulations, the respondent may move at any time to vacate or modify this temporary denial order by filing with the Hearing Commissioner, International Trade Administration, U.S. Department of Commerce, Room 3886D, 14th and Constitution Avenue, NW., Washington, D.C. 20230, an appropriate motion for relief, supported by substantial evidence, and may also request an oral hearing thereon, which, if requested, shall be held before the Hearing Commissioner at the earliest convenient date.

VI. This order is effective immediately. It remains in effect until the final disposition of any administrative or judicial proceeding or proceedings initiated against the named

respondent as a result of the ongoing investigation. A copy of this order and Parts 387 and 388 of the Regulations shall be served upon the respondent.

Dated: June 4, 1982.

Thomas W. Hoya,
Hearing Commissioner.

[FR Doc. 82-15877 Filed 6-10-82; 8:45 am]

BILLING CODE 3510-25-M

National Bureau of Standards

Revision to Federal Information Processing Standard 71; Advanced Data Communications Control Procedures (ADCCP)

Correction

In FR Doc. 82-14770 appearing on page 23798 in the issue for Tuesday, June 1, 1982; on page 23799, second column, the seventh and eighth lines from the bottom, should read as follows:

"In this case, the unique remainder is the remainder of the division

$$XY \frac{L(X)}{P(X)}.$$

BILLING CODE 1505-01-M

National Oceanic and Atmospheric Administration

Fishermen's Contingency Fund

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notification of claims pursuant to Title IV of the Outer Continental Shelf Lands Act Amendments of 1978 (Title IV). Notification 06-82.

SUMMARY: 50 CFR 296.6 requires that the Chief, Financial Services Division (FSD), publish in the Federal Register a notice of claims received under the Title IV Program. Any interested person may, on or before July 12, 1982, submit to the Chief, FSD, National Marine Fisheries Service (NMFS), evidence concerning the claim or a request to be admitted as a party to any hearing concerning the claim.

Important Date: Any evidence concerning any claim described in this Notice, and any request to be admitted as a party to any hearing concerning any such claim, must be submitted, in writing, to the Chief, FSD, on or before July 12, 1982.

ADDRESS: Send evidence and any request to be admitted as a party to any hearing to: Mr. Michael L. Grable, Chief, Financial Services Division, Attention:

Charles L. Cooper, National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Washington, D.C. 20235 (telephone 202-634-4688).

Supplementary Information

Title IV establishes a Fishermen's Contingency Fund (FCF) to compensate fishermen for eligible claims for actual and consequential damages, including lost profits, due to damages to, or loss of, fishing vessels or fishing gear by items associated with oil and gas exploration, development, or production on the Outer Continental Shelf (OCS). Title IV regulations require that upon

receipt of a timely-filed claim which is not clearly ineligible because of statutory exemptions from eligibility, the Chief, FSD publish a 30-day notice of the claim in the **Federal Register**. Upon expiration of the 30-day period following publication of the **Federal Register** notice, the claim will be referred to the Administrative Law Judge (ALJ). (50 CFR 296.6(a)(1)(iii))

Dated: June 4, 1982.

Robert K. Crowell,
Deputy Executive Director, National Marine Fisheries Service.

The following claims have been received.

Claim No.	Nature of loss and location	Amount	
FCF-41-82	On 5-10-82 claimant lost a bag and broke a net while trawling for shrimp, at the following coordinates: 7980X26883.6, 7980Y46909.2.	Unknown Unknown Unknown	Gear loss. Economic loss. Consequential loss.
FCF-42-82	On 5-17-82 claimant lost 2-40 ft nets, 900 ft of cable, while trawling for shrimp at the following coordinates: 7980X11596.1, 7980Y28145.7.	Unknown Unknown Unknown	Total. Gear loss. Economic loss. Consequential loss.
FCF-43-82	On 5-21-82 claimant lost a 65 ft net and bridles while trawling for shrimp at the following coordinates: 7980X26927.7, 7980Y46948.6.	Unknown Unknown Unknown	Total. Gear loss. Economic loss. Consequential loss.
		Unknown	Total.

*Amounts not yet reported at this publishing.

[FR Doc. 82-15869 Filed 6-10-82; 8:45 am]

BILLING CODE 3510-22-M

Gulf of Mexico Fishery Management Council's Shrimp Subpanel; Public Meeting

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice.

SUMMARY: The Gulf of Mexico Fishery Management Council, established by section 302 of the Magnuson Fishery Conservation and Management Act (Pub. L. 94-265), has established a Shrimp Subpanel, which will meet to review first-year operations for the Shrimp Fishery Management Plan.

DATES: The public meeting will convene on Thursday, July 8, 1982, at approximately 9:30 a.m., and will adjourn at approximately 4:30 p.m.

ADDRESS: The public meeting will take place at the Pembroke Room of the Holiday Inn-Houston, Houston International Airport, 3702 North Belt Road, East, Houston, Texas.

FURTHER INFORMATION: Gulf of Mexico Fishery Management Council, Lincoln

Center, Suite 881, 5401 West Kennedy Boulevard, Tampa, Florida 33609, Telephone: (813) 228-2815.

Dated: June 8, 1982.

Jack L. Falls,
Chief, Administrative Support Staff, National Marine Fisheries Service.

[FR Doc. 82-15879 Filed 6-10-82; 8:45 am]

BILLING CODE 3510-22-M

Mid-Atlantic Fishery Management Council, its Scientific and Statistical Committee and its Fluke Subpanel; Public Meetings

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

SUMMARY: The Mid-Atlantic Fishery Management Council, established by Section 302 of the Magnuson Fishery Conservation and Management Act (Pub. L. 94-265), has established a Scientific and Statistical Committee (SSC) and a Fluke Subpanel (FS). The Council, its SSC and its FS will hold separate public meetings.

AGENDAS: *Council*—discuss Tilefish, Bluefish, Summer Flounder, Surf Clam

and Ocean Quahog Fishery Management Plans (FMPs); discuss status of other FMPs, foreign fishing applications, as well as other fishery management and administrative matters. *SSC*—discuss background research for the Tilefish FMP. *FS*—review and make recommendations on the Summer Flounder FMP.

DATES: *Council*—Wednesday, July 16, 1982—meeting will convene at approximately noon, and will adjourn on Friday, July 1982, at approximately noon, at Rutgers University, Holly House, Cook Campus, New Brunswick, New Jersey. *SSC*—meeting will convene on Wednesday, July 7, 1982, at approximately 10 a.m., and will adjourn at approximately 3:30 p.m., at the Best Western Airport Motel, Philadelphia International Airport, Philadelphia, Pennsylvania. *FS*—meeting will convene on Wednesday, July 7, 1982, at approximately 10 a.m., and will adjourn at approximately 4 p.m., with meeting location identical to that of the *SSC* meeting. These meetings may be lengthened or shortened or agenda items rearranged depending upon progress on the same.

FURTHER INFORMATION: Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, 300 South New Street, Dover, Delaware 19901, Telephone: (302) 674-2331.

Dated: June 8, 1982.

Jack L. Falls,
Chief, Administrative Support Staff, National Marine Fisheries Service.

[FR Doc. 82-15880 Filed 6-10-82; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1982 Additions and Deletion; Janitorial Service

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Additions to and Deletion from Procurement List.

SUMMARY: This action adds to and delete from Procurement List 1982 services to be provided by and commodities to be produced by workshops for the blind and other severely handicapped.

EFFECTIVE DATE: June 11, 1982.

ADDRESS: Committee for Purchaser from the Blind and Other Severely Handicapped, 2009 14th Street, North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher, (703) 557-1145.

SUPPLEMENTARY INFORMATION: On March 19, 1982 and April 9, 1982, the Committee for Purchase from the Blind and Other Severely Handicapped published notices (47 FR 11918, and 47 FR 15403) of proposed additions to and deletion from Procurement List 1982, November 12, 1981 (46 FR 55740).

Additions

After consideration of the relevant matter presented, the Committee has determined that the services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46-48c, 85 Stat. 77.

Accordingly, the following services are hereby added to Procurement List 1982:

SIC 7349

Janitorial Service, U.S. Postal Service, Mailbag Facility, 7600 West Roosevelt Road, Forest Park, Illinois

SIC 7349

Janitorial Service, Federal Building, 400 N. 8th Street, Richmond, Virginia

Deletion

After consideration of the relevant matter presented, the Committee has determined that the commodities listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 46-48c, 85 Stat. 77.

Accordingly, the following commodities are hereby deleted from Procurement List 1982:

Class 7220

Mat, Floor, 7220-00-224-6489, 7220-00-205-2807, 7220-00-205-2808, 7220-00-224-6490, 7220-00-205-2805, 7220-00-205-2806

C. W. Fletcher,
Executive Director.

[FR Doc. 82-15823 Filed 6-10-82; 8:45 am]

BILLING CODE 6820-33-M

Procurement List 1982 Proposed Additions and Deletions; Cushion, Seat Vehicular

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed Additions to and Deletions from Procurement List.

SUMMARY: The Committee has received proposals to add to and delete from Procurement List 1982 commodities and military resale commodities to be produced by and services to be provided by workshops for the blind and other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: July 14, 1982.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street, North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher, (703) 557-1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

Additions

If the Committee approves the proposed additions, all entities of the Federal Government will be required to procure the commodities and services listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodities and services to Procurement List 1982, November 12, 1981 (46 FR 55740):

Class 2540

Cushion, Seat, Vehicular, 2540-00-808-3811

Class 7210

Blanket, Bath, (Flame Resistant), 7210-00-NIB-0011

SIC 5812

Food Service Attendant Service, Consolidated Enlisted Dining Facility, Building 61, Fort McPherson, Georgia

SIC 7349

Janitorial Services, Federal Building, U.S. Courthouse, Montgomery, Alabama

Janitorial Services, DCASR Building B-95, Lockheed Complex, 805 Walker Street, DCASR Building B-95, AF Plant 6, 612 Tinker Street, Marietta, Georgia

Janitorial Service, USDA Forest Service, Coeur d'Alene Nursery, Coeur d'Alene, Idaho

Janitorial & Mechanical Maintenance Service, Federal Building—Post Office, 200 East Washington Street, Greenwood, Mississippi

Custodial Service, Multiple Agency Building, 1100 Filmore Street, Amarillo, Texas

Deletions

It is proposed to delete the following military resale commodities and services from Procurement List 1982, November 12, 1981 (46 FR 55740):

Military Resale Item Nos. and Names

No. 450—Tennis racket, deluxe

No. 452—Tennis racket, economy

No. 588—Opener, pour and store

No. 911—Brush, floor, plastic filament, with handle

No. 952—Brush, percolator

SIC 7358

Rebuilding Automotive Components for the following locations:

GSA Interagency Motor Pool, Newark, New Jersey

GSA Interagency Motor Pool, New York, New York

SIC 7399

Assembly, Food Packet, In-Flight, Individual (8970-01-060-2899)

SIC 7699

Repair and Maintenance of Electric and Manual Typewriters

Rochester, New York (including Monroe County)

Repair, Maintenance, and Overhaul of Building Maintenance, Grounds Maintenance, and Related Types of Equipment in:

New York City (5 Boroughs, Nassau County, Suffolk County, New York; Newark, New Jersey, plus 5-mile radius

C. W. Fletcher,
Executive Director.

[FR Doc. 82-15824 Filed 6-10-82; 8:45 am]

BILLING CODE 6820-33-M

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board; Meeting

June 3, 1982.

The USAF Scientific Advisory Board, Foreign Technology Division Advisory Group, Air Force Systems Command, will meet on July 13, 1982 from 8:00 am to 5:00 pm and on July 14, 1982 from 8:00 am to 1:00 pm at Wright-Patterson Air Force Base, Ohio, Building 856, Room 276.

The purpose of the meeting will be to receive classified briefings and participate in review and discussions related to Foreign Technology Division assessment of foreign spread spectrum technology. Review emphasis will be

place on determining state of technology and potential for military application.

The meeting concerns matters listed in section 552b(c), Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly the meeting will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (202) 697-4648.

Winnibel F. Holmes,

Air Force Federal Register

Liaison Officer.

[FR Doc. 82-15860 Filed 6-10-82; 8:45 am]

BILLING CODE 3901-01-M

Office of the Secretary

Defense Science Board Task Force on Automatic Target Recognition

The Defense Science Board Task Force on Automatic Target Recognition will meet in closed session on 7, 8 July and 10, 11 August in the Pentagon.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceiving needs of the Department of Defense.

At both meetings the task force will review both government in-house programs and contracted efforts on electrooptical and computer techniques for the automatic detection and classification of tactical targets.

In accordance with 5 U.S.C. App. 1 10(d) (1976), it has been determined that this Defense Science Board Task Force meeting concerns matters listed in 5 U.S.C. 552b(c)(1)(1976), and that accordingly, this meeting will be closed to the public.

M. S. Healy,

OSD Federal Register Liaison Officer,
Department of Defense.

June 7, 1982.

[FR Doc. 82-15828 Filed 6-10-82; 8:45 am]

BILLING CODE 3810-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-51416; TSH-FRL 2139-1]

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 sixteen PMNs and provides a summary of each.

DATES: Close of Review Period:

PMN 82-381 & 82-382, August 19, 1982.

PMN 82-383, 82-384 & 82-385, August 22, 1982.

PMN 82-386, 82-387, 82-388, 82-389 & 82-390, August 23, 1982.

PMN 82-391, 82-392, 82-393, 82-394, 82-395 & 82-396, August 25, 1982.

Written comments by:

PMN 82-381 and 82-382, July 20, 1982.

PMN 82-383, 82-384 & 82-385, July 23, 1982.

PMN 82-386, 82-387, 82-388, 82-389 & 82-390, July 24, 1982.

PMN 82-391, 82-392, 82-393, 82-394, 82-395 & 82-396, July 26, 1982.

ADDRESS: Written comments, identified by the document control number "[OPTS-51416]" 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, (202-382-3532).

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, (202-382-3729)

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete non-confidential document is available in the public reading room E-107.

PMN 82-381

Manufacturer: Confidential.

Chemical: (G) Tetrasubstituted benzisoxazole.

Use/Production: (G) Site-limited intermediate. Prod. range: 500-1,000 kg/yr.

Toxicity Data: No data submitted.

Exposure: Manufacture and use: dermal and inhalation, a total of 10 workers, up to 2 hrs/da, up to 5 day/yr.

Environmental Release/Disposal: No release. Disposal by incineration.

PMN 82-382

Manufacturer: Confidential.

Chemical: (G) Polymer of alkenoic acid alkyl esters, 2-propenoic acid, and 2-propenoic acid, 2-methyl.

Use/Production: (G) Open use. Prod. range: 1,000-15,000 kg/yr.

Toxicity Data: No data submitted.

Exposure: Manufacture, processing, use and disposal: accidental dermal and inhalation, a total of 186 workers, up to 8 hrs/da, up to 250 da/yr.

Environmental Release/Disposal: More than 10,000 kg/yr released to water up to 10 da/yr. Disposal by publicly owned treatment works (POTW), landfill and activated sludge treatment settling.

PMN 82-383

Manufacturer: Confidential.

Chemical: (G) Brominated xylenol.

Use/Production: Confidential. Prod. range: Confidential.

Toxicity Data: No data submitted.

Exposure: Manufacture, use and disposal: dermal and inhalation, a total of 4 workers, up to 4 hrs/da, up to 20 da/yr.

Environmental Release/Disposal: Less than 10 kg/yr released to air 2 hrs/da, 20 da/yr. Disposal by incineration and approved landfill.

PMN 82-384

Manufacturer: Confidential.

Chemical: (G) Bis[bromo xylenol]sulfide.

Use/Production: Confidential. Prod. range: Confidential.

Toxicity Data: No data submitted.

Exposure: Manufacture, use and disposal: dermal and inhalation, a total of 7 workers, up to 2 hrs/da, up to 24 da/yr.

Environmental Release/Disposal: Less than 10 kg/yr released to air 2 hrs/da, 20 da/yr. Disposal by incineration and approved landfill.

PMN 82-385

Manufacturer: Confidential.

Chemical: (G) Bis[xylenol]sulfide.

Use/Production: Confidential. Prod. range: Confidential.

Toxicity Data: No data submitted.

Exposure: Manufacturer, use and disposal: dermal and inhalation, a total of 5 workers, up to 2 hrs/da, up to 27 da/yr.

Environmental Release/Disposal: Less than 10 kg/yr released to air 2 hrs/da, 27 da/yr. Disposal by incineration and approved landfill.

PMN 82-386

Importer: Confidential.

Chemical: (G) Metal complex of disazo aromatic acids, sodium salt.

Use/Import. (S) Dye for wool and nylon. Import range: 1,500-3,000 kg/yr.

Toxicity Data. Acute oral: >5 g/kg; Skin irritation: Slight; Eye irritation: None; Inhalation: >5.4 mg/kg (4 hrs); Ames Test: Negative.

Exposure. Processing: dermal and inhalation, a total of 12 workers, up to 2 hrs/da, up to 60 da/yr.

Environmental Release/Disposal. 10-100 kg/yr released to water 1 hr/da, 60 da/yr. Disposal by POTW and incineration.

PMN 82-387

Manufacturer. Confidential.

Chemical. (S) Phosphorodithioic acid, O,O', secondary butyl and isooctyl mixed esters.

Use/Production. (S) Captive intermediate. Prod. range: Confidential.

Toxicity Data. Acute oral: Moderately to highly toxic; Acute dermal: Moderately toxic.

Exposure. Manufacture and processing: dermal, 12 workers, 8 hrs/da, 50 da/yr.

Environmental Release/Disposal. 10-100 kg/yr released to air and water. Disposal by navigable waterway or tributary.

PMN 82-388

Manufacturer. Confidential.

Chemical. (S) Phosphorodithioic acid, O,O', secondary butyl and isooctyl mixed esters, zinc salt.

Use/Production. (S) Lubricating oil additive. Prod. range: Confidential.

Toxicity Data. Acute oral: 2,160 mg/kg; Acute dermal: >3,160 mg/kg; Eye irritation: Severe; Subchronic toxicity: Moderate to severe effects.

Exposure. Manufacture and processing: dermal, 12 workers, 8 hrs/da, 50 da/yr.

Environmental Release/Disposal. 10-100 kg/yr released to air and water. Disposal by navigable waterway or tributary.

PMN 82-389

Manufacturer. Confidential.

Chemical. (S) Reaction product of [[(phosphonomethyl)imino] bis[6,1-hexanediyl-nitrilobis(methylene)]] tetrakis phosphonic acid and (2,2'-oxybisethanol, reaction products with ammonia; morpholine derivatives, residues).

Use/Production. (G) Oil production chemical. Prod. range: 60,000-86,000 lb/yr.

Toxicity Data. Acute oral: >6.81 g/kg; Acute dermal: >3,160 mg/kg; Skin irritation: Slight to moderate; Eye irritation: Slight.

Exposure. Manufacture and use: limited, dermal and inhalation.

Environmental Release/Disposal.

Limited. Disposal by deep well injection.

PMN 82-390

Manufacturer. Confidential.

Chemical. (S) Polymer of styrene, 2-propenoic acid, 1,1-dimethylethyl ester of 2-propenoic acid, 2-ethylhexyl ester of 2-propenoic acid, and 2-hydroxy propyl acrylate.

Use/Production. (S) Industrial baking enamel coating. Prod. range: 10,000-125,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture, processing, use and disposal: dermal and inhalation, a total of 28 workers, up to 8 hrs/da, up to 252 da/yr.

Environmental Release/Disposal.

Less than 10 kg/yr released to air with an unknown amount to water up to 16 hrs/da, up to 252 da/yr.

PMN 82-391

Manufacturer. Confidential.

Chemical. (G) Cresol-formaldehyde resin.

Use/Production. (G) Intermediate. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture, processing and use: dermal and inhalation, a total of 36 workers.

Environmental Release/Disposal. Confidential Disposal by incineration and approved landfill.

PMN 82-392

Manufacturer. Confidential.

Chemical. (G) Hydroxy ethyl ester substituted polybis imide of pyromellitic dianhydride.

Use/Production. (G) Contained use. Prod. range: 225-2,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture, processing and use: dermal, 5 workers, 23 hrs/da, 40 da/yr.

Environmental Release/Disposal.

Less than 10 kg/yr released to land. Disposal by landfill.

PMN 82-393

Manufacturer. American Hoechst.

Chemical. (S) Amines, N-(3-aminopropyl)-N-talloalkyltrimethylenedibis-(3-aminopropyl)-N-tallowamine.

Use/Production. Confidential. Prod. range: Confidential.

Toxicity Data. Acute oral: 5,000 mg/kg; Skin irritation: None; Eye irritation: None.

Exposure. Processing: dermal and inhalation, 11 workers, 88 man hrs/yr.

Environmental Release/Disposal. Disposal by biological treatment system and approved landfill.

PMN 82-394

Manufacturer. Confidential.

Chemical. (G) Modified polyurethane, from diisocyanate, substituted alkanol and a substituted alkane diol.

Use/Production. (G) Open use. Prod. range: 2,000-100,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture, processing and use: dermal and eye, a total of 98 workers, up to 6 hrs/da, up to 250 da/yr.

Environmental Release/Disposal. Less than 10 kg/yr released to air and water with 100-1,000 kg/yr to land. Disposal by incineration.

PMN 82-395

Manufacturer. Confidential.

Chemical. (G) Polymer of a vegetable oil derivative, alkane diols and a carbomono-cyclic anhydride.

Use/Production. (G) Open use. Prod. range: 30,000-450,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture, processing and use: dermal and eye, a total of 111 workers, up to 6 hrs/da, up to 69 da/yr.

Environmental Release/Disposal. Less than 10 kg/yr released to air and water with 1,000-10,000 kg/yr to land. Disposal by incineration.

PMN 82-396

Manufacturer. Confidential.

Chemical. (G) Substituted oxirane reacted with polyalkylene glycol.

Use/Production. (G) Open use. Prod. range: 1,000-100,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture and processing: dermal, a total of 4 workers, up to 1 hr/da, up to 35 da/yr.

Environmental Release/Disposal. 100-1,000 kg/yr released to water 1 hr/da, 26 da/yr. Disposal by POTW.

Dated: June 1, 1982.

Denise F. Swink,

Acting Director, Management Support Division.

[FR Doc. 82-15445 Filed 6-10-82; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-51417; TSH-FRL 2143-6]

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 twenty one PMNs and provides a summary of each.

DATES: Close of Review Period: PMN 82-397, 82-398 and 82-399, August 26, 1982. PMN 82-400, 82-401 and 82-402, August 30, 1982. PMN 82-403, 82-404, 82-405, 82-406, 82-407, 82-408, 82-409, 82-410 and 82-411, August 31, 1982. PMN 82-412, 82-413, 82-414, 82-415, 82-416 and 82-417, September 1, 1982.

Written comments by: PMN 82-397, 82-398 and 82-399, July 27, 1982. PMN 82-400, 82-401 and 82-402, July 31, 1982. PMN 82-403, 82-404, 82-405, 82-406, 82-407, 82-408, 82-409, 82-410 and 82-411, August 1, 1982. PMN 82-412, 82-413, 82-414, 82-415, 82-416 and 82-417, August 2, 1982.

ADDRESS: Written comments, identified by the document control number "(OPTS-51417)" 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, D.C. 20460 (202-382-3532).

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, D.C. 20460 (202-382-3729).

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete non-confidential document is available in the public reading room E-107.

PMN 82-397

Manufacturer. Confidential.

Chemical. (G) Tetrasubstituted benzisoxazole.

Use/Production. (G) Site-limited intermediate. Prod. range: 500-1,500 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture and use: dermal and inhalation, a total of 10 workers, up to 1 hr/da, up to 10 da/yr.

Environmental Release/Disposal. No release. Disposal by biological treatment system and incineration.

PMN 82-398

Importer. Confidential.

Chemical. (G) A mixture of benzamide, N-((substituted naphthyl)azo)phenyl-((substituted amino-hydroxy-sulfonaphthyl)azo) and benzamide, N-((substituted naphthyl)azo)phenyl-((substituted amino-hydroxy-sulfonaphthyl)azo), compounded with organic acids.

Use/Import. (S) Colorant for paper. Import range: Confidential.

Toxicity Data. No data submitted.

Exposure. No exposure.

Environmental Release/Disposal. No release.

PMN 82-399

Importer. Ciba-Geigy Corporation.

Chemical. (S) C₁₆₋₁₈-alkyl mercaptoacetates reaction products with dichlorodioctylstannane and trichlorooctylstannane.

Use/Import. (G) Contained use. Import range: Confidential.

Toxicity Data. Acute oral: 5,600 mg/kg; Skin irritation: None; Eye irritation: None; Subchronic oral, rats (3 mos): 50 mg/kg; Ames Test: Non-mutagenic; Subchronic oral, dogs (13 wks): 60 mg/kg.

Exposure. Dermal and inhalation, up to 8 hrs/da, up to 200 da/yr during transfer.

Environmental Release/Disposal. Minimal release to air. Disposal by incineration and approved landfill.

PMN 82-400

Manufacturer. Jordan Chemical Company.

Chemical. (S) Potassium N,N-bis(hydroxyethyl) cocoamine oxide phosphate.

Use/Production. (S) Industrial, commercial and consumer surfactant. Prod. range: 5,000-200,000 kg/yr.

Toxicity Data. Acute oral: <5.0 mg/kg; Skin irritation: Primary irritant; Eye irritation: Primary irritant.

Exposure. Manufacture: dermal, 1 worker, 1 hr/da, 30 da/yr.

Environmental Release/Disposal. No release.

PMN 82-401

Manufacturer. Clinton Corn Processing Company, Inc.

Chemical. (G) Polyvinyl starch.

Use/Production. (G) Sizing agent. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential

PMN 82-402

Manufacturer. Confidential.

Chemical. (G) Styrene-diene-substituted alkene copolymer.

Use/Production. (G) Open use. Prod. range: Confidential.

Toxicity Data. Acute oral: >2 gm/kg; Skin irritation: 0.8; Eye irritation: Mild to moderate; Skin sensitization: Negative.

Exposure. Manufacture and processing: dermal and inhalation, a total of 70 workers, up to 12 hrs/da, up to 30 da/yr.

Environmental Release/Disposal. Confidential.

PMN 82-403

Manufacturer. Walsh Chemical Corporation.

Chemical. (S) Ethyl acrylate-methyl acrylate copolymer.

Use/Production. (S) Site-limited and industrial latex for compounding cloth back. Prod. range: 1,240,000-5,000,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Processing and use: dermal, a total of 17 workers, up to .02 hr/da, up to 260 da/yr.

Environmental Release/Disposal. Less than 10 kg/yr released to air, water and land .3 hr/da, 260 da/yr. Disposal by waste trash.

PMN 82-404

Manufacturer. Walsh Chemical Corporation.

Chemical. (S) Ethyl acrylate-methyl methacrylate copolymer.

Use/Production. (S) Site-limited and industrial latex for compounding cloth back. Prod. range: 80,000-130,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Processing and use: dermal, a total of 17 workers, up to .02 hr/da, up to 260 da/yr.

Environmental Release/Disposal. Less than 10 kg/yr released to air, water and land .3 hr/da, 260 da/yr. Disposal by waste trash.

PMN 82-405

Manufacturer. Walsh Chemical Corporation.

Chemical. (S) Ethyl acrylate-methyl acrylate-methyl methacrylate copolymer.

Use/Production. (S) Site-limited and industrial latex for compounding cloth back. Prod. range: 2,250,000-10,000,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Processing and use: dermal, a total of 17 workers, up to .02 hr/da, up to 260 da/yr.

Environmental Release/Disposal. Less than 10 kg/yr released to air, water and land .3 hr/da, 260 da/yr. Disposal by waste trash.

PMN 82-406

Manufacturer. Walsh Chemical Corporation.

Chemical. (S) Ethyl acrylate—methyl acrylate copolymer.

Use/Production. (S) Site-limited and industrial latex for compounding cloth back. Prod. range: 80,000–90,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Processing and use: dermal, a total of 17 workers, up to .02 hr/da, up to 260 da/yr.

Environmental Release/Disposal. Less than 10 kg/yr released to air, water and land .3 hr/da, 260 da/yr. Disposal by waste trash.

PMN 82-407

Manufacturer. Walsh Chemical Corporation.

Chemical. (S) Vinyl acetate homopolymer.

Use/Production. (S) Industrial textile sizing and adhesives. Prod. range: 350,000–400,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Processing: dermal, .02 hr/da, 260 da/yr.

Environmental Release/Disposal. Less than 10 kg/yr released to air, water and land .3 hr/da, 260 da/yr. Disposal by waste trash.

PMN 82-408

Manufacturer. Hach Company.

Chemical. (G) Tetra tosylate porphine.
Use/Production. (S) Industrial and consumer analytical reagent. Prod. range: 0.2–1.5 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture and processing: oral and dermal, a total of 3 workers, up to 4 hrs/da, up to 2 da/yr.

Environmental Release/Disposal. Less than 10 kg/yr released to air and water. Disposal by publicly owned treatment works (POTW).

PMN 82-409

Manufacturer. Jordan Chemical Company.

Chemical. (S) Potassium N,N-bis(hydroxyethyl) tallow amine oxide phosphate.

Use/Production. (S) Industrial, commercial and consumer surfactant. Prod. range: 5,000–200,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, 1 worker, 1 hr/da, 30 da/yr.

Environmental Release/Disposal. No release.

PMN 82-410

Importer. Confidential.

Chemical. (G) Substituted heterocycle, amine salt.

Use/Import. (G) Contained use. Import range: Confidential.

Toxicity Data. Acute oral: > 5,000 mg/kg; Skin irritation: Minimal; Eye irritation: Slight.

Exposure. Use: dermal and inhalation, 2 hrs/da, 200 da/yr.

Environmental Release/Disposal. No release. Disposal by incineration and approved landfill.

PMN 82-411

Manufacturer. The Dow Chemical Company.

Chemical. (G) Mixed metal hydroxide.
Use/Production. Confidential. Prod. range: 15,000–800,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture and use: dermal and inhalation, a total of 35 workers, up to 5 hrs/da, up to 240 da/yr.

Environmental Release/Disposal. No release. Disposal by approved landfill.

PMN 82-412

Manufacturer. Confidential.

Chemical. (S) Anthra[2,1,9-def:6,5,10-d'e'f]diisoquinoline-1,3,8,10(2H,9H)-tetrone, 2,9-bis(4-aminophenyl).

Use/Production. (S) Industrial textile dye. Prod. range: 180–3,300 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture, processing and disposal: dermal, a total of 19 workers, up to 8 hrs/da, up to 240 da/yr.

Environmental Release/Disposal. Less than 10 kg/yr released to air with 10–100 kg/yr to water and land 24 hrs/da, 365 da/yr. Disposal by National Pollution Discharge Elimination System (NPDES) and approved landfill.

PMN 82-413

Manufacturer. Confidential.

Chemical. (G) Polyether polyglycol resin polymer.

Use/Production. Confidential. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture and use: liquid, 2 workers, 1 hr/da, 12 da/yr.

Environmental Release/Disposal. No release.

PMN 82-414

Manufacturer. E. I. du Pont de Nemours and Company, Inc.

Chemical. (G) Polyester polymer.
Use/Production. (S) Intermediate.

Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, 8 workers, 24 hrs./da, 1 da/yr.

Environmental Release/Disposal. Minimal. Disposal by incineration.

PMN 82-415

Manufacturer. E.I. du Pont de Nemours and Company, Inc.

Chemical. (G) Polyester polymer.
Use/Production. (G) Component of a final product. Prod. range: confidential.

Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, 8 workers, 24 hrs/da, 3 da/yr.

Environmental Release/Disposal. Minimal. Disposal by incineration.

PMN 82-416

Manufacturer. E.I. du Pont de Nemours and Company, Inc.

Chemical. (G) Urethane polyol.
Use/Production. Confidential. Prod. range: Confidential.

Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, 8 workers, 24 hrs/da, 4 da/yr.

Environmental Release/Disposal. Minimal. Disposal by incineration.

PMN 82-417

Manufacturer. Confidential.

Chemical. (G) Polymer of alkenes and substituted alkenes.

Use/Production. (G) Contained use. Prod. range: Confidential.

Toxicity Data. Acute oral: 5.0 g/kg; Acute dermal: 2.0 g/kg; Skin irritation: Mild; Eye irritation: Mild; Ames Test: Negative.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

Dated: June 7, 1982.

Denise F. Swink,
Acting Director, Management Support Division.

[FR Doc. 82-15067 Filed 6-10-82; 8:45 am]

BILLING CODE 6560-50-M

[AMS-FRL 2143-2]

Control of Air Pollution From New Motor Vehicles and New Motor Vehicle Engines; Federal Certification Test Results for 1982 Model Year

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: Section 206(e) of the Clean Air Act as amended August 1977, directs the Administrator of the Environmental Protection Agency to announce in the Federal Register and make available to the public the results of certification tests conducted on new motor vehicles and new motor vehicle engines to determine conformity with Federal standards for the control of air pollution caused by motor vehicles and motor vehicle engines. The Federal Certification Test Results for the 1982 model year are now available and may be obtained by writing: U.S. Environmental Protection Agency, Mobile Source Air Pollution Control, Certification Division, 2565 Plymouth

Road, Ann Arbor, Michigan 48105, (313) 668-4202.

FOR FURTHER INFORMATION CONTACT: Christine Mikolajczyk, Certification Division, U.S. Environmental Protection Agency, 2565 Plymouth Road, Ann Arbor, Michigan 48105, (313) 668-4284.

Dated: May 27, 1982.

Charles Elkin, Jr.,

Acting Assistant Administrator for Air, Noise, and Radiation.

[FR Doc. 82-15849 Filed 6-10-82; 8:45 am]

BILLING CODE 6560-50-M

[ER-FRL-2144-5]

Availability of Environmental Impact Statements Filed June 1 through June 4, 1982 Pursuant to 40 CFR Part 1506.9

RESPONSIBLE AGENCY: Office of Federal Activities, Ms. Kathi Wilson, (202) 382-5074, procedural inquiries, general information, 382-5075 or 382-5073.

Corps of Engineers:

EIS# 820365, Draft, COE, AL, Threemile Creek Flood Control Project, Mobile County, Due: July 26, 1982

EIS# 820354, Draft, COE, VA, Willoughby Spit and Vicinity Shoreline Protection, City of Norfolk, Due: July 26, 1982

EIS# 820361 Draft, COE, WA, Grays Harbor/Chehalis and Hoquiam Rivers Navigation Improvement, Due: July 26, 1982

EIS# 820366, Draft, COE, WA, East, West and Duwamish Waterways Navigation Improvements, King Co., Due: Aug. 2, 1982

EIS# 820359 Final, COE, MS, Port Gibson Port Construction, Mississippi River, Claiborne County, Due: July 12, 1982

EIS# 820352, Final, COE, OR, Siuslaw River and Bar Jetty Extension, Lane County, Due: July 12, 1982

Department of Commerce:

EIS# 820367, Draft, NOAA, NY, New York Coastal Management Program, CZM, Due: July 26, 1982

Department of Interior:

EIS# 820357, Draft, BLM, OR, Riley Area Grazing Management Plan, Harney County, Due: Aug. 3, 1982

EIS# 820358 Final, IBR, ID, Anderson Ranch Powerplant, Unit 3, Generation Increase, Elmore County, Due: July 12, 1982

EIS# 820360, Final, IBR, ID, Minidoka Powerplant, Rehabilitation and Enlargement, Minidoka County, Due: July 12, 1982

EIS# 820371 Final, OSM, WY, North Antelope Mine, Mining/Reclamation Plan Approval, Campbell Co., Due: July 12, 1982

Department of Transportation:

EIS# 820356 Draft, FHW, CA, I-80 Improvement, Auburn Ravine Undercrossing to East Auburn Overhead, Due: July 26, 1982

EIS# 820355, Draft, FHW, WI, US 53 Upgrading, Rice Lake to Trego, Barron

and Washburn Counties, Due: July 26, 1982

EIS# 820362, DSuppl, FHW, HI, Interstate H-3 Gap Closure/Construction, Honolulu County, Due: July 26, 1982

EIS# 820372, Final, FHW, GA, North Thomasville Bypass Construction US 84 to US 319, Thomas County, Due: July 16, 1982

EIS# 820353, FSuppl, FHW, SEV, IA NB Missouri River Bridge Construction, Nebraska City, Due: July 16, 1982

Environmental Protection Agency:

EIS# 820368, Final, EPA, FL, St. Johns River Power Park, NPDES Permit, Duval County, Due: July 12, 1982

General Services Administration:

EIS# 820370, Final, GSA, AZ, San Luis New Border Station, Yuma County, Due: July 12, 1982

Department of Housing and Urban Development:

EIS# 820369, Final, CDB, NY, Rochester Convention Center Construction, Grant, Monroe County, Due: July 12, 1982

Department of Agriculture:

EIS# 820363, Draft, AFS, CA, Los Padres NF/Navajo Area Mineral Exploration Plan, Approval, Due: Sept. 2, 1982

EIS# 820364, Draft, AFS, Co, Homestake Phase II Water Diversion, White River NF, Eagle County, Due: July 26, 1982

Amended Notices:

EIS# 820321, Final, FHW, WV, Appalachian Corridor G Construction, Holden/Godby Heights, Logan Co., *Published FR 5/28/82—Officially Retracted, due to noncompletion of distribution, Due:

EIS# 820291, Final, SCS, CA, Liagas Creek Watershed Flood Control Resource Management Plan, *Published FR 5/21/82—Review Reestablished due to noncompletion of distribution, Due: July 6, 1982

EIS# 820077, DSuppl, NDA, AK, High Seas Salmon Fishery Management Plan, *Published FR 2/19/82—Officially withdrawn, Due:

Dated: June 8, 1982.

Pat A. Alberico,

Acting Director, Office of Federal Activities.

[FR Doc. 82-15884 Filed 6-10-82; 8:45 am]

BILLING CODE 6560-50-M

[ER-FRL-2144-5]

Intent To Prepare an Environmental Impact Statement (EIS)

AGENCY: Environmental Protection Agency, Region 6—Dallas.

CONTACT: Mr. Clinton B. Spotts, Regional Coordinator, U.S. Environmental Protection Agency, Region 6, 1201 Elm Street, Dallas, Texas 75270, Telephone: 214/767-2716 or FTS 729-2716.

SUMMARY: Pursuant to EPA regulations for the preparation of EISs (40 CFR Part 6), EPA is preparing an EIS in the proposed issuance of a new source NPDES permit to Houston Lighting and

Power Company and a subsidiary of North American Coal Corporation for discharges from the Malakoff Electric Generating Station and the Trinity Mine, respectively. Previously, EPA published a notice of intent (47 FR 9574) to prepare an EIS on the generating station. However, since that time EPA has decided to prepare one EIS that will include the generating station and the mine. EPA estimates draft EIS will be available in November 1982.

Additionally, Region 6 will prepare an EIS on the proposed issuance of a new source NPDES permit for the Dolit Hills Surface Lignite Mine near Mansfield, Louisiana. Southwestern Electric Power Company and Central Louisiana Electric Company, Inc., have announced the signing of a lignite mining contractor for supplying fuel to the Dolit Hills Power Plant. EPA plans to hold a scoping meeting on July 6, 1982 at 7:30 p.m. at the DeSoto Parish Instructional Material Center located on Oxford Road in Mansfield, Louisiana. EPA estimates the draft EIS will be available in November 1982. For further information regarding these notices contact Mr. Clinton Spotts (see above).

Dated: June 8, 1982.

Pat A. Alberico,

Acting Director, Office of Federal Activities.

[FR Doc. 82-15882 Filed 6-10-82; 8:45 am]

BILLING CODE 6560-50-M

[CR-FRL-2144-5]

Withdrawal of Intent To Prepare an Environmental Impact Statement (EIS)

AGENCY: Environmental Protection Agency, Region 4—Atlanta.

CONTACT: Mr. Dario J. Dal Santo, Project Officer, Environmental Assessment Branch, Environmental Protection Agency, 345 Courtland Street, NE., Atlanta, Georgia 30365, Telephone: 404/881-3776.

SUMMARY: On December 18, 1981, EPA published a notice of intent to prepare an Environmental Impact Statement (46 FR 61714) on the proposed issuance of a new source NPDES permit for the Tri-State Synfuels Company's (TSSC) proposed indirect liquefaction facility near Geneva, Henderson County, Kentucky. Recently, TSSC informed EPA of its intention to postpone ongoing project activities. Therefore, EPA is issuing notice of its intention to suspend further efforts in preparing this EIS. Should the project activity and EIS efforts resume at some future date, public notice would be made at the reinitiation of these efforts.

Dated: June 8, 1982.

Pat A. Alberico,

Acting Director, Office of Federal Activities.

[FR Doc. 82-15883 Filed 6-10-82; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

[BC Docket No. 82-267; File No. BP-800327AE, etc.]

New England Broadcasting, Inc., et al.; Designating Applications for Consolidated Hearing on Stated Issues

In re Applications of New England Broadcasting, Inc., Berlin, New Hampshire, Req: 1230 kHz, 250 W, 1 kW-LS, U, Req: 103.7 MHz, Channel 279, 17 kW (H&V); 160 feet BC Docket No. 82-267, File No. BP-800327AC; BC Docket No. 82-268, File No. BPH-800327AE; Berlin Broadcasting Company, Inc., Berlin, New Hampshire, Req: 1230 kHz, 250 W, 1 kW-LS, U, Req: 103.7 MHz, Channel 279, 17 kW (H&V); 160 feet, BC Docket No. 82-269, File No. BP-800620AE; BC Docket No. 82-270, File No. BPH-800620AH; Christina and Joel Martin, Berlin, New Hampshire, Req: 1230 kHz, 250 W, 1 kW-LS, U, Req: 103.7 MHz, Channel 279, 17 kW (H&V); 255 feet, BC Docket No. 82-271, File No. BP-800620AC; BC Docket No. 82-272, File No. BPH-800724AD; Sico Communications, Inc., Berlin, New Hampshire BC Docket No. 82-273, File No. BPH-800725AF; Req: 103.7 MHz, Channel 279, 17 kW (H&V); 160 feet for construction permit.

Memorandum Opinion and Order

Adopted: May 13, 1982.

Released: May 27, 1982.

By the Commission: Chariman Fowler not participating.

1. White Mountain Broadcasting Co., Inc. was the licensee of stations WMOU and WXLQ(FM), Berlin, New Hampshire, from 1969 until 1979, and Robert R. Powell was its president and sole shareholder. In a hearing on the stations' license renewal applications we found that Powell had knowingly engaged in fraudulent billing of many local advertisers while he controlled the stations, terming his conduct among the most egregious violations of Section 73.1205 of the Rules we had encountered. Also we found that White Mountain had failed to maintain adequate program logs for WXLQ. For these reasons we denied the license renewal applications of both stations. *White Mountain Broadcasting Co., Inc.*, 60 FCC 2d 342, *reconsid. denied*, 61 FCC 2d 472 (1976); *aff'd sub nom. White Mountain Broadcasting Co., Inc. v. FCC*,

598 F. 2d 274 (D.C. Cir.), *cert. denied*, 444 U.S. 963 (1979). We now have under consideration: (a) the above-captioned mutually exclusive applications for new AM and FM stations to continue service formerly provided by WMOU and WXLQ; (b) New England's petition to deny the Martin applications; and (c) related pleadings.

Financial Qualifications

2. *Preliminary matters.* The applicants who have applied for both an AM and an FM station may be granted permits for both, or for only one. We have therefore reviewed each such applicant's proposals to determine its qualifications to finance just an AM station, just an FM, and both.

3. *New England.* This applicant has not projected costs for acquiring and operating the AM or FM station separately. It estimates that \$64,613 will be required for an AM-FM combination, itemized as follows:

Equipment payments.....	\$7,000
Other pre-operation costs.....	7,500
Operating costs (3 months).....	50,113
Total.....	64,613

4. New England says that it will purchase the stations' physical plant from the former licensee's secured creditor, and that the \$7,000 for equipment payments is the down payment required. The payment terms, however, have not been clearly set out. Applicant plans to finance its proposal with \$15,000 in shareholder contributions and loans, a \$50,000 bank loan, and advertising revenues. However, it has not submitted stock-subscription agreements, or loan commitments and balance sheets showing the principals' capacity to meet these commitments. In addition the bank loan letter was valid for less than one month and has expired, and anticipated advertising revenues may not be relied upon. A general financial issue will therefore be specified.

5. *Berlin.* This applicant has also provided cost estimates only for an AM-FM combination, as follows:

Equipment down payment.....	\$7,000
Equipment payments.....	3,012
Other pre-operation costs.....	21,000
Operating costs (3 months).....	49,400
Total.....	80,412

Berlin relies on \$10,000 in existing capital, a \$50,000 line of credit, and advertising revenues. It has not, however, submitted a current balance sheet for the corporation, or documentation from a lending institution indicating a willingness to provide the \$50,000 line of credit. Accordingly, a general financial issue will be specified.

6. *Martin.* This applicant has segregated costs and funding for its AM and FM proposals, and for a combined operation, as follows:

	AM only	FM only	AM-FM
Equipment down payment.....	\$16,277	\$17,362	\$33,850
Equipment payments.....	8,789	9,372	15,582
Land.....	2,000	2,000	2,000
Buildings.....	3,000	3,000	3,000
Miscellaneous.....	8,500	8,500	8,500
Operating costs (3 months).....	18,107	21,332	21,332
Total.....	56,673	61,566	84,264

¹ Martin did not provide us with a complete list of operating costs for an FM operation alone. It did, however, list additional operating costs for an FM station. For purpose of analysis, we have assumed that Martin's FM operating costs would not exceed its operating costs for an AM-FM combination.

To finance its proposals, Martin relies on \$55,000 existing capital, a \$100,000 Small Business Administration loan, and advertising revenues. Only the existing capital has been shown to be available, however. Therefore, a limited financial issue will be specified.

7. *Sico.* This applicant, which seeks authority to operate only the FM station, has not adequately explained the costs it expects to incur. Aside from an estimated \$26,755 in three months operating costs and miscellaneous expenses of \$6,000, Sico only states that it expects to spend \$100,000 for land, building renovation, and equipment. Further, Sico states that it only "assumes" that WXLQ's former licensee will sell it the necessary FM equipment. Regarding its financing, Sico plans to rely upon station revenues and the possibility of a \$200,000 bank loan. Because this applicant's explanation of expected costs and documentation of funding are deficient, a general financial issue will be specified.

Petition To Deny Martin's Applications and Martin's Allegations

8. *Martin's allegations.* As previously noted, in denying WMOU and WXLQ license renewal, we determined that Robert R. Powell personally was aware of and affirmatively engaged in the process of fraudulent billing by falsifying affidavits regarding the true cost and quantity of the advertising broadcast by the stations.¹ Powell has not severed his connections with the stations, however. Upon request of the interim operator (and with the informal approval of the Commission's staff), he has been employed by the stations in a non-management capacity as talk-show host and salesman.² In addition, we note

¹ 60 FCC 2d at 344.

² Community Broadcasting Association of Berlin, Inc., applicant for interim authority to operate both stations, has provided service under special

that Berlin and New England are composed of the children of Powell: New England's principals include offspring Stephen E. Powell and Deborah J. Powell Stever, while Berlin is primarily composed of sons Michael Powell and Robert R. Powell, Jr., and their wives.

9. Martin alleges that several improper relationships exist among Robert R. Powell, Community, Berlin, and New England. First, it claims that New England and Berlin are not bona fide competitors. As stated above, Robert Powell's children comprise both applicants, although there is no overlap of principals between Berlin and New England. Martin also points out the similarity of both applicants' financial proposals. Each proposes to purchase the equipment of WMOU/WXLQ from a secured creditor on similar terms and sets forth similar funding plans: securing a \$50,000 loan from a lending institution. There apparently also exists a sharing of attorneys between applicants. Berlin's attorney of record, Philip R. Waystack, Jr., filed New England's petition to deny, but is identified in the petition as New England's attorney. Martin also points out that New England's attorney of record, Scott H. Robb, was not served with a copy of the petition. Neither Berlin nor New England has responded to Martin's contention that they are not bona fide separate entities.

10. Next, Martin attempts to link New England with interim operator Community. It notes that New England's petition to deny the Martin application contains the engineering affidavit of J. Gordon Keyworth, in which Keyworth states that Community authorized him to file the affidavit. Martin therefore alleges that Community has violated Section 292.2-a of New Hampshire's Not-For-Profit Corporation Law by engaging in self-dealing.³ Furthermore, Martin contends that Community misrepresented its claim to the Commission that, as an interim operator, it would use any profits it received for charitable purposes. Community responds by stating only that a "misunderstanding" prompted Keyworth to declare that he prepared the technical exhibit on behalf of Community, and

temporary operating authority since March 7, 1980, using WMOU and WXLQ's physical plant.

³This statute expressly prohibits a private foundation (e.g., a non-profit corporation) from self-dealing, which is using funds for purposes other than the limited, non-profit ones for which it is organized and operated. Since Community is organized and operated for educational and charitable purposes, Martin argues that its alleged use of funds on behalf of a commercial applicant for a construction permit in a contested proceeding is improper. See § 501(c)(3) of the Internal Revenue Code.

that Community never employed Keyworth in any capacity. Besides these matters, we note that New England's attorney of record (and corporate director), Scott Robb, is also counsel for Community.

11. Finally, Martin sees links between Community and Robert Powell. It claims that Powell has exercised management-level responsibilities by hiring employees for the interim operator, in addition to serving as salesman and announcer. In support, Martin submits a Berlin newspaper article reporting that Powell hired an announcer in the summer of 1980, well after White Mountain Broadcasting lost its licenses. Community admits that Powell serves as an employee, but terms the newspaper article erroneous and denies that Powell hired any station personnel or otherwise assumed an active management role in the station since Community assumed temporary operating authority.

12. Community's responses to Martin's charges are cursory and inadequate, and New England and Berlin have not responded at all. We believe that sufficient factual questions have been raised to warrant issues exploring the relationships among Robert Powell, New England, Berlin, and Community.⁴ These questions leave us unable to determine whether some of the applicants have misrepresented matters to or been less than candid with us, and whether New England and Berlin are bona fide competitors.⁵ Further, implicit in Martin's allegations is the charge that Robert Powell, through New England, Berlin, and Community, is attempting to regain control of the stations he lost.⁶ A real-party-in-interest issue will therefore also be specified.

13. *New England's petition.*⁷ New England alleges in its petition that

⁴These matters call into question the qualifications of Community, the interim applicant, as well, such that we cannot find that grant of the interim applications would serve the public interest. The Broadcast Bureau will therefore make further inquiry, and if appropriate will entertain additional interim applications. We will also make Community a party to this hearing.

⁵Even if it does not show misrepresentation of real parties in interest, the evidence may show violation of Section 73.3520 of our Rules, which prohibits multiple applications by the same parties.

⁶We are, however, satisfied with Community's March 6, 1980 agreement to lease Powell's physical plant in that we believe the agreement does not *per se* give any actual or potential controlling power to Powell. As a practical matter, such an arrangement was necessary to maintain service to the public.

⁷We would not ordinarily consider New England's petition at this time. In the "Paglin Report" we found that competing applicants have ample opportunity to raise objections to other applications after designation for hearing, and that considering their petitions beforehand only delays Commission proceedings. *Processing of Contested Broadcast Applications*, 72 FCC 2d 202, 212-15 (1979). (Petitions to dismiss, however, can be dealt

Martin misrepresented interviewing Olivette M. Dumas, a community leader, in its ascertainment survey.⁸ Dumas has signed a letter, apparently drafted by New England principal Stephen Powell, stating that she was never interviewed by any applicant seeking the instant facilities. Joel Martin states, however, that he did interview Ms. Dumas, and to support his contention he submits a survey questionnaire he says Dumas signed at the time of the interview. New England has not rebutted Martin's evidence, and we find that New England has raised no substantial question of fact requiring specification of an issue. See *Mize & Rowland Radio*, 86 FCC 2d 782, 784-85 (1981).

14. Likewise, New England's other two charges require no further action. Petitioner alleges that a Martin employee offered a job to one of New England's principals if Martin won the comparative hearing, but fails to explain how this alleged job offer violates any Commission rule or standard of conduct. Lastly, petitioner contends that Martin's original transmitter site coordinates did not correspond to the actual WMOU/WXLQ site, which Martin stated it was seeking. Martin has since remedied this discrepancy by submitting the correct coordinates for the proposed site. Neither of these charges requires specification of an issue against Martin.

Other Matters

15. Berlin principal Robert R. Powell, Jr. stated in response to Question 17(a) of Section II, FCC Form 301, that he had no previous connection with a broadcast station. He was, however, listed as being elected a "Clerk Director" of the former licensee of stations WMOU and WXLQ in those stations' ownership reports. We have no evidence that this was anything other than an oversight, and therefore no qualification issue will be specified. However, Berlin's applications should be appropriately amended.

16. We have no evidence that Berlin or Sico published the required local notices of the filing of their applications. To remedy this deficiency, they will be required to publish local notice of their

with at the predesignation stage because they involve threshold questions of the acceptability of applications.) Because of the nature of the allegations, however, we are exercising our discretion to examine them on their merits in this order.

⁸New England also faults two of the interviews for having been conducted by an unidentified non-principal. The question presented is moot in light of Martin's response that the interviewer was its proposed sales manager, and our subsequent elimination of formal ascertainment procedures. *Deregulation of Radio*, 84 FCC 2d 968 (1981).

applications, if they have not already done so, and to certify the publications to the presiding Administrative Law Judge.

17. Of the applicants for both AM and FM permits, Martin proposes independent programming. New England, however, proposes to duplicate some programming (2½ hours per day), and Berlin will duplicate all programming if it is successful in obtaining permits for both facilities. Therefore, evidence regarding program duplication will be admissible under the standard comparative issue. When duplicated programming is proposed, the showing permitted will be limited to evidence concerning the benefits to be derived from the proposed duplication which would offset its inefficiency. *Jones T. Sudbury, 8 FCC 2d 360 (1967)*.

18. 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.

19. 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 the relationships and connections among Robert R. Powell, New England, Berlin, and Community.

2. To determine, in light of the evidence adduced pursuant to issue 1 above, whether Robert R. Powell is a real party in interest to the applications of New England or Berlin.

3. To determine, in light of the evidence adduced pursuant to issue 1 above, whether New England and Berlin are bona fide arms' length competitors.

4. To determine, in light of the evidence adduced pursuant to issues 1, 2, and 3 above, whether New England or Berlin misrepresented matters to or has been lacking in candor with the Commission.

5. To determine whether New England is financially qualified to construct and operate either or both of its proposed stations.

6. To determine whether Berlin is financially qualified to construct and operate either or both of its proposed stations.

7. To determine with respect to Martin:

a. The source and availability of additional funds over and above the \$55,000 indicated; and

b. In light of the evidence adduced pursuant to (a) above, whether the

applicant is financially qualified to construct and operate either or both of its proposed stations.

8. To determine whether Sico is financially qualified to construct and operate its proposed FM station.

9. To determine which of the proposals would, on a comparative basis, best serve the public interest.

10. To determine, in the light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

20. It is further ordered, That the burden of proceeding with the introduction of evidence on Issue 1 will be on Martin, and the burden of proof on Issues 2 through 4 will be on New England and Berlin.

21. It is further ordered, That New England's petition to deny Martin's applications is dismissed as a petition to deny, and treated as an informal objection, is denied.

22. It is further ordered, That Martin's informal objection is granted to the extent indicated.

23. It is further ordered, That Community Broadcasting Association of Berlin, Inc. is made a party to this proceeding.

24. It is further ordered, That Berlin shall amend its application as specified in paragraph 16 above on or before July 12, 1982.

25. It is further ordered, That Berlin and Sico shall publish local notice of the filing of their applications (if they have not already done so), and shall certify their publications to the presiding Administrative Law Judge within 40 days after this order is published in the Federal Register.

26. It is further ordered, That to avail themselves of the opportunity to be heard, and pursuant to § 1.221(c) of the Commission's Rules, the parties shall, in person or by attorney, within 20 days of the mailing of this order, file with the Commission in triplicate written appearances stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this order.

27. It is further ordered, That pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, the applicants shall give notice of the hearing (either individually or jointly) within the time and in the manner prescribed in the rule, and shall advise the Commission of the publication of notice as required by § 73.3594(g) of the rules.

Federal Communications Commission.

William J. Tricarico,
Secretary.

[FR Doc. 82-15782 Filed 6-10-82; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL PREVAILING RATE ADVISORY COMMITTEE

Open Committee Meetings

Pursuant to the provisions of section 10 of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that meetings of the Federal Prevailing Rate Advisory Committee will be held on: Thursday, July 1, 1982; Thursday, July 29, 1982.

These meetings will convene at 10 a.m., and will be held in Room 5A06A, Office of Personnel Management Building, 1900 E Street, NW, Washington, D.C.

The Federal Prevailing Rate Advisory Committee is composed of a Chairman, representatives of five labor unions holding exclusive bargaining rights for Federal blue-collar employees, and representatives of five Federal agencies. Entitlement to membership of the Committee is provided for in 5 U.S.C. 5347.

The Committee's primary responsibility is to review the prevailing rate system and other matters pertinent to the establishment of prevailing rates under subchapter IV, chapter 53, 5 U.S.C., as amended, and from time to time advise the Office of Personnel Management thereon.

These scheduled meetings will convene in open session with both labor and management representatives attending. During the meeting either the labor members or the management members may caucus separately with the Chairman to devise strategy and formulate positions. Premature disclosure of the matters discussed in these caucuses would impair to an unacceptable degree the ability of the Committee to reach a consensus on the matters being considered and disrupt substantially the disposition of its business. Therefore, these caucuses will be closed to the public on the basis of a determination made by the Director of the Office of Personnel Management under the provisions of section 10(d) of the Federal Advisory Committee Act (Pub. L. 92-463) and 5 U.S.C. 552b(c)(9)(B). These caucuses may, depending on the issues involved, constitute a substantial portion of the meeting.

Annually, the Committee publishes for the Office of Personnel Management, the

President, and Congress a comprehensive report of pay issues discussed, concluded recommendations thereon, and related activities. These reports are also available to the public, upon written request to the Committee Secretary.

Members of the public are invited to submit material in writing to the Chairman concerning Federal Wage System pay matters felt to be deserving of the Committee's attention. Additional information concerning these meetings may be obtained by contacting the Committee Secretary, Federal Prevailing Rate Advisory Committee, Room 1340, 1900 E Street, NW, Washington, D.C. 20415 (202-632-9710).

William B. Davidson, Jr.,

Chairman, Federal Prevailing Rate Advisory Committee.

June 7, 1982.

[FR Doc. 82-15801 Filed 6-10-82; 8:45 am]

BILLING CODE 6325-01-M

FEDERAL RESERVE SYSTEM

Federal Open Market Committee; Authorization for Domestic Open Market Operations

In accordance with the Committee's rules regarding availability of information, notice is given that on April 13-14, 1982, paragraph 1(a) of the Committee's authorization for domestic open market operations was amended to raise from \$3 billion to \$5 billion the limit on changes between Committee meetings in System Account holdings of U.S. government and federal agency securities, effective immediately, for the period ending with the close of business on May 18, 1982.

On April 26-27, the Committee voted to approve an additional increase of \$1 billion, to \$6 billion, in the intermeeting limit on changes in holdings of U.S. government and federal agency securities for the period ending with the close of business of May 18, 1982.

Note.—For paragraph 1(a) of the authorization, see 36 FR 22697.

By order of the Federal Open Market Committee, June 4, 1982.

Murray Altmann,
Secretary.

[FR Doc. 82-15783 Filed 6-10-82; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares

and/or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. 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.

A. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *Coastal Bankshares, Inc.*, Hinesville, Georgia; to become a bank holding company by acquiring 100 percent of the voting shares of The Coastal Bank, Hinesville, Georgia. Comments on this application must be received not later than July 4, 1982.

2. *Foxworth Corporation*, Foxworth, Mississippi; to become a bank holding company by acquiring 80 percent of the voting shares of Foxworth Bank, Foxworth, Mississippi. Comments on this application must be received not later than July 4, 1982.

3. *Progressive Capital Corporation*, Amite, Louisiana; to become a bank holding company by acquiring 80 percent of the voting shares of Central Progressive Bank of Amite, Amite, Louisiana. Comments on this application must be received not later than July 4, 1982.

B. Federal Reserve Bank of Chicago (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *First Peoria Corp.*, Peoria, Illinois; to become a bank holding company by acquiring 100 percent (less directors' qualifying shares) of the voting shares of The First National Bank of Peoria, Peoria, Illinois. Comments on this application must be received not later than July 4, 1982.

2. *Weaver Bancshares, Inc.*, Riverton, Iowa; to become a bank holding company by acquiring 82 percent of the voting shares of Nishna Valley State Bank, Riverton, Iowa. Comments on this application must be received not later than July 4, 1982.

C. Federal Reserve Bank of St. Louis (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Monticello Bankshares, Inc.*, Monticello, Kentucky; to become a bank

holding company by acquiring 80 percent or more of the voting shares of Monticello Banking Company, Monticello, Kentucky. Comments on this application must be received not later than July 4, 1982.

2. *Vernois Bancorp, Inc.*, Mt. Vernon, Illinois; to become a bank holding company by acquiring 80 percent of the voting shares of Bank of Illinois in Mt. Vernon, Mt. Vernon, Illinois. Comments on this application must be received not later than July 4, 1982.

D. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *First National Bancshares of Fredonia*, Fredonia, Kansas; to become a bank holding company by acquiring at least 80 percent of the voting shares of First National Bank of Fredonia, Fredonia, Kansas. Comments on this application must be received not later than July 4, 1982.

E. Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551:

1. *Americana Bancorporation of Alden, Inc.*, Edina, Minnesota; to become a bank holding company by acquiring an additional 75.63 percent of the voting shares of Americana State Bank of Alden, Alden, Minnesota. Applicant currently owns 24 percent of Bank. This application may be inspected at the Federal Reserve Bank of Minneapolis. Comments on this application must be received not later than July 4, 1982.

Board of Governors of the Federal Reserve System, June 4, 1982.

William W. Wiles,

Secretary of the Board.

[FR Doc. 82-15784 Filed 6-10-82; 8:45 am]

BILLING CODE 6210-01-M

Colonial Capital Corp.; Formation of Bank Holding Co.

Colonial Capital Corporation, Mantee, Mississippi, 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 83 percent or more of the voting shares of Bank of Mantee, Mantee, Mississippi. 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)).

Colonial Capital Corporation, Mantee, Mississippi, 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)), to act as insurance

agent or broker for the sale of insurance that is directly related to an extension of credit by a bank or bank related firm. These activities would be performed from offices of Applicant's subsidiary in Mantee, Olive Branch, and Starkville, Mississippi, and the geographic areas to be served are Webster, De Soto and Oktibbeha Counties in Mississippi. 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 St. Louis.

Any views or requests for hearing should be submitted in writing and received by the Reserve Bank not later than July 4, 1982.

Board of Governors of the Federal Reserve System, June 4, 1982.

William W. Wiles,
Secretary of the Board.

[FR Doc. 82-15786 Filed 6-10-82; 8:45 am]
BILLING CODE 6210-01-M

Santa Fe Trail Banc Shares, Inc.; Proposed Acquisition of Thayer Leasing, Inc.

Santa Fe Trail Banc Shares, Inc., Hutchinson, Kansas, 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 Thayer Leasing, Inc., Hutchinson, Kansas.

Applicant states that the proposed subsidiary would engage in general leasing activities, including those for commercial, agribusiness, and municipal customers, in conformance with the

Board's Regulation Y. These activities would be performed from offices of Applicant's subsidiary in Hutchinson, Kansas and the geographic areas to be served are Hutchinson, Kansas and southwest Kansas. 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 person wishing to comment on the application should submit views in writing to the Reserve Bank to be received no later than July 4, 1982.

Board of Governors of the Federal Reserve System, June 4, 1982.

William W. Wiles,
Secretary of the Board.

[FR Doc. 82-15785 Filed 6-10-82; 8:45 am]
BILLING CODE 6210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[S 2817 WR, S 5102 WR]

California; Order Providing for Opening of Public Land

June 2, 1982.

1. In an exchange of lands made under the provision of section 8 of the Act of June 28, 1934, 48 Stat. 1269, 1272, as amended and supplemented, 43 U.S.C. 315g (1964), the following lands have been reconveyed to the United States:

Mount Diablo Meridian

T. 11 N., R. 11 E.,

Sec. 20, Lots 41 and 42 (MS 2971 and MS 3354).

The areas described aggregate 33.50 acres in El Dorado County.

Mount Diablo Meridian

T. 8 S., R. 4 E.,

Sec. 11, Lots 6, 11, and N½ of Lot 14.

The areas described aggregate 97.72 acres in Santa Clara County.

2. The mineral estate of Lot 41, sec. 20, T. 11 N., R. 11 E., is privately owned and not subject to disposition under the mining and mineral leasing laws. Lots 6, 11, and N½ of Lot 14 have been and will continue to be open to location under the mining laws pursuant to the Act of December 29, 1916, and to applications and offers under the mineral leasing laws.

3. At 10 a.m. on July 9, 1982, the land shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on July 9, 1982, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

4. At 10 a.m. on July 9, 1982, Lot 42, sec. 20, T. 11 N., R. 11 E., shall be open to location under the United States mining laws, and to applications and offers under the mineral leasing laws.

Inquiries concerning the land should be addressed to the Bureau of Land Management, Department of the Interior, Room E-2841, Federal Office Building, 2800 Cottage Way, Sacramento, California 95825.

Walter F. Holmes,
Chief, Branch of Lands and Minerals
Operations.

[FR Doc. 82-15683 Filed 6-10-82; 8:45 am]
BILLING CODE 4310-84-M

FEDERAL TRADE COMMISSION

Early Termination of the Waiting Period of the Premerger Notification Rules; Devon Energy Corp.

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the waiting period of the premerger notification rules.

SUMMARY: Devon Energy Corp., is granted early termination of the waiting period provided by law and the premerger notification rules with respect to the proposed acquisition of certain assets of Canadian Pacific, Ltd. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early

termination submitted by both parties. Neither agency intends to take any action with respect to this acquisition during the waiting period.

Effective Date: May 28, 1982.

FOR FURTHER INFORMATION CONTACT: Roberta Baruch, Senior Attorney, Premerger Notification Office, Bureau of Competition, Room 303, Federal Trade Commission, Washington, D.C. 20580, (202) 523-3894.

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the *Federal Register*.

By direction of the Commission.

Carol M. Thomas,
Secretary.

[FR Doc. 82-15893 Filed 6-10-82; 8:45 am]
BILLING CODE 6750-01-M

Early Termination of the Waiting Period of the Premerger Notification Rules; Dowty Group, PLC

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the waiting period of the premerger notification rules.

SUMMARY: Dowty Group, PLC is granted early termination of the waiting period provided by law and the premerger notification rules with respect to the proposed acquisition of all voting securities of RFL Industries, Inc. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by Dowty Group, PLC. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: May 28, 1982.

FOR FURTHER INFORMATION CONTACT: Roberta Baruch, Senior Attorney, Premerger Notification Office, Bureau of Competition, Room 303, Federal Trade Commission, Washington, D.C. 20580, (202) 523-3894.

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of

1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the *Federal Register*.

By direction of the Commission.

Carol M. Thomas,
Secretary.

[FR Doc. 82-15892 Filed 6-10-82; 8:45 am]
BILLING CODE 6750-01-M

Early Termination of the Waiting Period of the Premerger Notification Rules; MCO Holdings, Inc.

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the waiting period of the premerger notification rules.

SUMMARY: MCO Holdings, Inc., is granted early termination of the waiting period provided by law and the premerger notification rules with respect to the proposed acquisition of certain voting securities of Simplicity Pattern Co., Inc. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by MCO Holdings, Inc. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: June 1, 1982.

FOR FURTHER INFORMATION CONTACT: Roberta Baruch, Senior Attorney, Premerger Notification Office, Bureau of Competition, Room 303, Federal Trade Commission, Washington, D.C. 20580, (202) 523-3894.

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the *Federal Register*.

By direction of the Commission.

Carol M. Thomas,
Secretary.

[FR Doc. 82-15891 Filed 6-10-82; 8:45 am]
BILLING CODE 6750-01-M

Line of Business Reports Program; Intention To Publish 1976 Line of Business Annual Report

AGENCY: Federal Trade Commission.

ACTION: Authorization to publish the 1976 Annual Line of Business Report on or after June 27, 1982.

FOR FURTHER INFORMATION CONTACT: Line of Business Program, Room LL01, 2120 L Street, NW., Washington, D.C. 20037, Telephone: (202) 254-8170.

The Federal Trade Commission has authorized publication of the 1976 Annual Line of Business Report (ALBR), which contains aggregates of data reported by individual companies, but which does not contain any information by which individual company data can be identified. In order to assure that all reporting companies receive adequate notice, companies were mailed notices on June 7, 1982. Publication will not take place prior to twenty days following the date of that letter.

In connection with the Commission's notice regarding publication of the 1974 ALBR, on August 6, 1981, the Commission placed on the public record and sent to reporting companies copies of a statement explaining its publication policies. Copies of the Commission's statement may be obtained by contacting the LB Program at the address or phone number above and requesting the *Statement of the Federal Trade Commission Concerning Publication of the 1974 Line of Business Annual Report*.

The 1976 ALBR is virtually identical in format to the 1975 ALBR, copies of which were mailed to the 1975 respondents. Copies of the 1976 ALBR may be obtained by contacting the LB Program. Advance information on the number of companies in each line of business is also available upon request to the LB Program.

By direction of the Commission.

Carol M. Thomas,
Secretary.

[FR Doc. 82-15890 Filed 6-10-82; 8:45 am]
BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES**Food and Drug Administration****Blood Products Advisory Committee; Renewal***Correction*

In FR Doc. 82-14407 appearing on page 23563 in the issue for Friday, May 28, 1982, make the following correction:

On page 23563, third column, under **DATES**, first paragraph, second line, the date "May 13, 1983" should be changed to "May 13, 1984."

BILLING CODE 1505-01-M

[Docket No. 82N-0153; DESI 11409 and 50230]

Bristol Laboratories, Lederle Laboratories, Pfizer Laboratories, E.R. Squibb & Sons, Inc., and the Upjohn Co.; Certain Combination Drugs Containing Antibiotics and Antifungal Agents; Notice of Hearing*Correction*

In FR Doc. 82-14562 appearing at page 23564 in the issue for Friday, May 28, 1982, make the following correction:

On page 23566, first column, third line from the top, the word "competition" should be corrected to read "completion."

BILLING CODE 1505-01-M

[Docket No. 80N-0074; DESI 9149 and 11127]

Chlorpromazine Hydrochloride; Hearing*Correction*

In FR Doc. 82-14561 appearing on page 23566 in the issue for Friday, May 28, 1982, make the following correction.

On page 23566, third column, last paragraph, tenth line, "3.14.111" should be changed to "314.111".

BILLING CODE 1505-01-M

[Docket No. 80N-0204]

International Vitamin Corp., et al.; New Drug Applications; Withdrawal of Approval*Correction*

In FR Doc. 82-14559 appearing on page 23567 in the issue for Friday, May 28, 1982; third column, NDA 06-042, Applicant's name should read "Reed & Carnrick Pharmaceutical".

BILLING CODE 1505-01-M

[Docket No. 82F-0132]

Ralston Purina Co.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Ralston Purina Co. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of oxidized soy isolate as a binder-adhesive component of coatings for paper and paperboard intended for use in contact with dry food.

FOR FURTHER INFORMATION CONTACT:

Julia L. Ho, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St., SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (Sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 2B3594) has been filed by Ralston Purina Co., Checkerboard Square, St. Louis, MO 63188, proposing that § 176.180 *Components of paper and paperboard in contact with dry food* (21 CFR 176.180) be amended to provide for the safe use of oxidized soy isolate as a binder-adhesive component of coatings for paper and paperboard intended for use in contact with dry food.

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

Dated: June 1, 1982.

Sanford A. Miller,
Director, Bureau of Foods.

[FR Doc. 82-15642 Filed 6-10-82; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 80N-0273]

Vale Chemical Co., Withdrawal of Approval*Corrections*

In FR Doc. 82-14560 appearing on page 23568, in the issue for Friday, May 28, 1982; second column, NDA 09-454,

Drug name should read "Tensathyn Capsules", NDA-11-196, Drug name should read "Hemoton Tablet".

BILLING CODE 1505-01-M

[Docket No. 75N-0223; DESI No. 597]

Withdrawal of Approval; Pathilon With Phenobarbital Sequels

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration is withdrawing approval of the new drug application for Pathilon with Phenobarbital Sequels containing trihexethyl chloride and phenobarbital. Approval is withdrawn because the drug lacks substantial evidence of effectiveness in the treatment of various gastrointestinal disorders. The product is no longer marketed.

EFFECTIVE DATE: June 23, 1982.

ADDRESS: Requests for an opinion of the applicability of this notice to a specific product should be identified with the reference number DESI 597 and directed to the Division of Drug Labeling Compliance (HFD-310), Bureau of Drugs and Biologics, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

Jean A. Peeler, Bureau of Drugs and Biologics (HFD-32), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3650.

SUPPLEMENTARY INFORMATION: In a notice published in the Federal Register on November 11, 1975 (40 FR 52651), the Director of the Bureau of Drugs proposed to withdraw approval of certain anticholinergic drug products in controlled-release dosage form. The proposed order was based on a lack of substantial evidence of effectiveness, including evidence of prolonged effect.

In response to the notice, Lederle Laboratories, Division American Cyanamid Co., P.O. Box 500, Pearl River, NY 10965, requested a hearing for its product listed below, but has since withdrawn the request. Therefore, approval of the following new drug application is being withdrawn.

NDA 11-940; Pathilon with Phenobarbital Sequels (controlled-release capsules) containing trihexethyl chloride and phenobarbital.

Any drug product that is identical, related, or similar to the drug product named above and is not the subject of an approved new drug application is

covered by the new drug application reviewed and is subject to this notice (21 CFR 310.6). Any person who wishes to determine whether a specific product is covered by this notice should write to the Division of Drug Labeling Compliance (address given above).

This notice does not apply to Pathilon Tablets (NDA 9-489) and Sustained Release Capsules (NDA 11-889) containing tridihexethyl chloride and Pathilon with Phenobarbital Tablets (NDA 9-489) containing tridihexethyl chloride and phenobarbital. These products are the subject of pending hearing requests and will be the subject of future Federal Register notices.

Based on new information on the drug product and the evidence available when the application was approved, the Director of the Bureau of Drugs and Biologics, under the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052-1053 as amended (21 U.S.C. 355)), and under the authority delegated to him (21 CFR 5.82), finds that there is a lack of substantial evidence that the drug product will have the effect it purports, or is represented to have under the conditions of use prescribed, recommended, or suggested in its labeling.

Therefore, pursuant to the foregoing finding, approval of new drug application 11-940, and all amendments and supplements thereto, is withdrawn effective June 23, 1982.

Shipment in interstate commerce of the above product or any identical, related, or similar product that is not the subject of an approved new drug application will then be unlawful.

Dated: June 3, 1982.

Harry M. Meyer, Jr.,
Director, Bureau of Drugs and Biologics.

[FR Doc. 82-15643 Filed 6-10-82; 8:45 am]

BILLING CODE 4160-01-M

Advisory Committee; Date, Agenda, and Location Changes

AGENCY: Food and Drug Administration.
ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing changes in the date, agenda, and location of a meeting of the Ophthalmic Device Section of the Ophthalmic, Ear, Nose, and Throat; and Dental Devices Panel. The meeting was announced in the Federal Register of May 14, 1982 (47 FR 20861) for June 21 and 22, 1982. The meeting will now be held on June 22 only, in Rm. 17-09A, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD, from 3 p.m. until approximately 5 p.m. The

meeting will be held by a telephone conference call. A speaker phone will be provided in the conference room to allow public participation in the meeting. The meeting will discuss premarket approval applications for two 250-milligram salt tablet systems, two contact lens solutions, and one contact lens.

FOR FURTHER INFORMATION CONTACT: George C. Murray, Bureau of Medical Devices (HFK-460), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7940.

Dated: June 8, 1982.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 82-15794 Filed 6-10-82; 8:45 am]

BILLING CODE 4160-01-M

Peripheral and Central Nervous System Drugs Advisory Committee; Renewal

AGENCY: Food and Drug Administration.
ACTION: Notice.

SUMMARY: Under the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), the Food and Drug Administration (FDA) is announcing the renewal of the Peripheral and Central Nervous System Drugs Advisory Committee by the Secretary, Department of Health and Human Services.

DATE: Authority for this committee will expire on June 4, 1984, unless the Secretary formally determines that renewal is in the public interest.

FOR FURTHER INFORMATION CONTACT: Richard L. Schmidt, Committee Management Office (HFA-306), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-2765.

Dated: June 8, 1982.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 82-15791 Filed 6-10-82; 8:45 am]

BILLING CODE 4160-01-M

Psychopharmacologic Drugs Advisory Committee; Renewal

AGENCY: Food and Drug Administration.
ACTION: Notice.

SUMMARY: Under the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), the Food and Drug Administration (FDA) is announcing the renewal of the Psychopharmacologic Drugs Advisory Committee by the Secretary,

Department of Health and Human Services.

DATE: Authority for this committee will expire on June 4, 1984, unless the Secretary formally determines that renewal is in the public interest.

FOR FURTHER INFORMATION CONTACT:

Richard L. Schmidt, Committee Management Office (HFA-306), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-2765.

Dated: June 8, 1982.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 82-15792 Filed 6-10-82; 8:45 am]

BILLING CODE 4160-01-M

Science Advisory Board; Renewal

AGENCY: Food and Drug Administration.
ACTION: Notice.

SUMMARY: Under the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), the Food and Drug Administration (FDA) is announcing the renewal of the Science Advisory Board by the Secretary, Department of Health and Human Services.

DATE: Authority for this committee will expire on June 2, 1984, unless the Secretary formally determines that renewal is in the public interest.

FOR FURTHER INFORMATION CONTACT:

Richard L. Schmidt, Committee Management Office (HFA-306), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-2765.

Dated: June 8, 1982.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 82-15793 Filed 6-10-82; 8:45 am]

BILLING CODE 4160-01-M

Office of the Secretary

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Department of Health and Human Services (HHS) publishes a list of information collection packages it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). The following are those packages submitted to OMB since the last list was published on June 4.

Public Health Service*Center for Disease Control*

Subject: Campylobacter National Surveillance—New

Respondents: State and local governments

Subject: Employee Vital Status Letter (0920-0035)—Extension

Respondents: Individuals or households

Health Resources Administration

Subject: Survey of Recent Optometry Graduates to Determine Practice Patterns—New

Respondents: Individuals or households

National Institutes of Health

Subject: Cancer Information Service Call—Record Form—New

Respondents: Individuals or households

OMB Desk Officer: Richard Eisinger

Food and Drug Administration

Subject: Transmittal of Labels and Circulars for Biological Products (0910-0039)—Extension

Respondents: Manufacturers of biological products

OMB Desk Officer: Fay S. Iudicello

Health Care Financing Administration

Subject: Uniform Billing Form (HCFA-1480)—Extension/No Changes

Respondents: Hospitals

Subject: Application for Health Insurance Benefits Under Medicare for Individuals with Chronic Renal Disease (HCFA 43)—Extension/No Change

Respondents: Individuals

Subject: Request for Certification in the Medicare Program for Physical Therapists in Independent Practice (HCFA-262)—New

Respondents: Businesses

OMB Desk Officer: Fay S. Iudicello

Copies of the above information collection clearance packages can be obtained by calling the HHS Reports Clearance Officer on 202-245-6511.

Written comments and recommendations for the proposed information collections should be sent directly to both the HHS Reports Clearance Officer and the appropriate OMB Desk Officer designated above at the following addresses:

J. J. Strnad, HHS Reports Clearance Officer, Hubert H. Humphrey Building, Room 524.F, Washington, D.C. 20201
 OMB Reports Management Branch, New Executive Office Building, Room 3208, Washington, D.C. 20503, Attn.: (name of OMB Desk Officer)

Dated: June 4, 1982.

Dale W. Sopper,

Assistant Secretary for Management and Budget.

[FR Doc. 82-15820 Filed 6-10-82; 8:45 am]

BILLING CODE 4150-04-M

Public Health Service**Debarment From Eligibility for Financial Assistance**

AGENCY: Public Health Service, HHS.

ACTION: Notice of debarment.

SUMMARY: This notice announces the debarment of Marc J. Straus, M.D. from eligibility for direct or indirect financial assistance under any discretionary program awarded or administered by the Department of Health and Human Services.

DATE: The debarment became effective on May 18, 1982.

FOR FURTHER INFORMATION CONTACT:

William F. Raub, Ph.D., Associate Director for Extramural Research and Training, National Institutes of Health, 9000 Rockville Pike, Building 1, Room 407, Bethesda, Maryland 20205, Telephone: (301) 496-1096.

SUPPLEMENTARY INFORMATION: Pursuant to 45 CFR 76.16, Marc J. Straus, M.D., New York Medical College, Valhalla, New York 10595, has been debarred from receiving or applying for, directly or indirectly, any form of financial assistance under any discretionary program awarded or administered by the Department of Health and Human Services. The debarment applies to assistance provided through grants, cooperative agreements, fellowships, traineeships, loans, loan guarantees, and interest subsidies, as well as contracts, subcontracts, and subgrants supported by such assistance. It also debars Dr. Straus from service or participation in the conduct or performance of an assisted project. The debarment became effective on May 18, 1982. After the expiration of 4 years, Dr. Straus may again apply to the Department for receipt of financial assistance.

The debarment results from a National Institutes of Health (NIH) and Food and Drug Administration (FDA) investigation of the clinical studies on the use of experimental oncological drugs performed by Dr. Straus and a team of researchers at Boston University Medical Center. With few exceptions, these studies were monitored and coordinated by the Eastern Cooperative Oncology Group (ECOG) under the sponsorship of NIH. As a result of this investigation, NIH concluded that the following findings justified debarment of Dr. Straus under 45 CFR Part 76:

(1) The plan of investigation was not followed;

(a) Some ineligible patients were entered into the studies;

(b) Some drug dosages deviated from protocol requirements.

(2) False information was submitted to the sponsor of the investigation; adequate and accurate case histories were not maintained;

(a) Data in some patient records were altered;

(b) Patient data (including number and size of tumors, status of disease, response to treatment, white blood counts, platelet counts and various eligibility criteria) reported to ECOG were different from the data reflected on some patient records.

(3) Documentation of informed consent for some study participants was not maintained adequately and protocols were not reviewed in compliance with the HHS Protection of Human Subjects Regulations, 45 CFR Part 46.

By a written agreement dated May 18, 1982, Dr. Straus conceded the presence of these deficiencies in the clinical studies, waived his right to all hearings contemplated by 45 CFR Part 76, and agreed to the debarment described above. As a part of the same agreement, Dr. Straus also agreed that, pursuant to 21 CFR 312.1(c), he would be ineligible to receive investigational new drugs.

Dated: June 4, 1982.

Edward N. Brandt, Jr.,

Assistant Secretary for Health.

[FR Doc. 82-15819 Filed 6-10-82; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF THE INTERIOR**Bureau of Land Management**

[M 44653]

Montana; Realty Action—Exchange

June 4, 1982.

AGENCY: Bureau of Land Management, Lewistown District Office, Interior.

ACTION: Notice of Realty Action M 44653, Exchange of public and private lands in Fergus County, Montana.

SUMMARY: The following described lands have been determined to be suitable for disposal by exchange under section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716.

Principal Meridian

T. 20 N., R. 23 E.,

Sec. 31, Lots 1 and 2, NE $\frac{1}{4}$ and E $\frac{1}{2}$ NW $\frac{1}{4}$.

T. 20 N., R. 24 E.,

Sec. 25, SW¼NE¼.

T. 20 N., R. 25 E.,

Sec. 18, Lot 2 and NE¼SE¼; and

Sec. 19, SE¼NW¼.

Aggregating 461.75 acres of public land.

In exchange for these lands, the United States will acquire the surface estate in the following described lands:

Principal Meridian

T. 21 N., R. 25 E.,

Sec. 21, NE¼;

Sec. 22, W¼; and

Sec. 27, NW¼.

Containing 640 acres of private lands.

DATES: Until July 26, 1982, interested parties may submit comments to the District Manager, Bureau of Land Management, Drawer 1160, Lewistown Montana 59457. Any adverse comments will be evaluated by the State Director, who may vacate on 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 this Department.

FOR FURTHER INFORMATION CONTACT:

Information related to the exchange, including the environmental assessment and land report, is available for review at the Lewistown District Office, Airport Road, Lewistown, Montana 59457.

SUPPLEMENTARY INFORMATION: The proposed exchange would result in acquisition of 640 acres by the Federal Government adjacent and contiguous to a large parcel of public land in the Missouri River Breaks. In return, approximately 462 acres of isolated land suitable for agriculture would be transferred to private ownership. The proposed exchange will benefit public needs and improve manageability of public lands. The publication of this notice segregates the public lands described above from settlement, sale, location and entry under the public land laws, including the mining laws, but not from exchange pursuant to sec. 206 of the Federal Land Policy and Management Act of 1976.

The exchange will be made subject to:

1. A reservation to the United States in the land being transferred of a right-of-way for ditches or canals constructed by the authority of the United States in accordance with 43 U.S.C. 945.
2. The reservation to the United States of all minerals in the lands being transferred out of Federal ownership. The Government already owns the mineral estate in the land being acquired.
3. All valid existing rights (e.g., rights-of-way, easements and leases of record).
4. The Value equalization by cash payments or acreage adjustments.

5. The exchange must meet the requirements of 43 CFR 4110.4-2(b).

This exchange is consistent with Bureau of Land Management policies and planning and has been discussed with State and local officials. The public interest will be served by completion of this exchange.

Michael J. Penfold,

State Director.

[FR Doc. 82-15859 Filed 6-10-82; 8:45 am]

BILLING CODE 4310-84-M

New Mexico; Southeast Oklahoma Management Framework Plan—Underground Minable Coal Reserves

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Decision on the Amendment of Southeast Oklahoma Management Framework Plan.

SUMMARY: This notice is to advise the public that the District Manager, Albuquerque District, Bureau of Land Management, has issued a decision on the amendment of the Southeast Oklahoma Management Framework Plan (MFP). The amendment decision designated a 50-acre parcel, area M1A-38, as suitable for further leasing consideration. The State Director of New Mexico has concurred in that decision.

SUPPLEMENTARY INFORMATION: The District Manager, Albuquerque District, Bureau of Land Management, has issued a decision on the amendment of the Southeast Oklahoma Management Framework Plan (MFP), in response to a federal coal lease modification application filed by Lone Star Steel Company. The MFP amendment incorporated the 50-acre lease addition, area M1A-38, into the land use planning process. The amendment decision designated area M1A-38 as suitable for further leasing consideration. The State Director of New Mexico has concurred in that decision.

Area M1A-38 includes the following described lands:

Indian Meridian, Oklahoma

T. 8 N., R. 24 E.,

Sec. 18, NE¼NW¼, NW¼SE¼NW¼.

Copies of the Decision Document and Final Environmental Assessment are available for public review in the New Mexico State Office, U.S. Post Office and Federal Building, Santa Fe, New Mexico; at the Albuquerque District Office, 3550 Pan American Freeway, NE, Albuquerque, New Mexico; or at the Oklahoma Resource Area Office, 200 NW Fifth Street, Room 548, Oklahoma City, Oklahoma, during regular office

hours. Individual copies of the document are available from the Oklahoma Area Manager, Bureau of Land Management, 200 NW Fifth Street, Room 548, Oklahoma City, Oklahoma 73102, telephone (405) 231-4481.

Any person who participated in the planning process and who has an interest which may be adversely affected by approval of the MFP amendment may file a protest on or before July 12, 1982. A protest may raise only those issues which were submitted for the record to the District Manager during the planning process. The protest shall be in writing and shall be filed with the State Director, Bureau of Land Management, New Mexico State Office, P.O. Box 1449, Santa Fe, New Mexico 87501. The protest shall contain the name, mailing address, telephone number and interest of the person filing the protest; a statement of the issue or issues being protested; a statement of the part of the amendment being protested; a copy of all documents addressing the issue or issues that were submitted during the amendment process by the protesting party or an indication of the date the issue or issues were discussed for the record; and a short, concise statement explaining why the District Manager's decision was wrong.

Implementation of the decision will begin no sooner than July 12, 1982, or upon resolution of any protest received by the State Director.

L. Paul Applegate,

District Manager.

[FR Doc. 82-15861 Filed 6-10-82; 8:45 am]

BILLING CODE 4310-84-M

[CA 12321]

California; Classification of Public Lands for State Indemnity Selection

1. The California State Lands Commission has filed petition for classification and application to acquire the public lands, including the mineral estate, described in paragraph 3 below, under provisions of sections 2275 and 2276 of the Revised Statutes, as amended (43 U.S.C. 851, 852), in lieu of certain lands granted to the State under the act of Congress signed March 3, 1853 (10 Stat. 244) that were encumbered by other rights or reservations before the State's title could attach. This application has been assigned Serial Number CA 12321.

2. The notice of proposed classification of these lands was published on April 1, 1982 in Federal Register Volume 47, Number 82 as Document Number 82-8735, appearing

on pages 13908 to 13910, and was widely publicized. Several comments were received primarily concerning management by the State after transfer. These comments were considered to be neither supportive nor nonsupportive of the proposed classification. There have been no substantive changes made in the classification from that presented in the proposed decision.

3. The Lands included in the proposed classification are located within Mendocino County, California, and are described as follows:

a. Lands available for State Indemnity Lieu Selection:

Mount Diablo Meridian

- T. 17 N., R. 11 W.,
 Sec. 4, Lots 1, 2, SE $\frac{1}{2}$ NE $\frac{1}{2}$.
- T. 18 N., R. 11 W.,
 Sec. 7, SE $\frac{1}{2}$;
 Sec. 8, Lots 7-9;
 Sec. 15, Lots 1-8;
 Sec. 17, Lots 1-10;
 Sec. 18, N $\frac{1}{2}$ NE $\frac{1}{2}$;
 Sec. 20, E $\frac{1}{2}$ NE $\frac{1}{2}$, SW $\frac{1}{2}$ SE $\frac{1}{2}$;
 Sec. 21, Lots 1-12;
 Sec. 22, N $\frac{1}{2}$ NW $\frac{1}{2}$;
 Sec. 23, SW $\frac{1}{2}$ SW $\frac{1}{2}$;
 Sec. 26, SE $\frac{1}{2}$ SE $\frac{1}{2}$;
 Sec. 27, SE $\frac{1}{2}$ NE $\frac{1}{2}$;
 Sec. 30, Lots 1-4, E $\frac{1}{2}$ SW $\frac{1}{2}$;
 Sec. 31, Lot 1, NE $\frac{1}{2}$ NW $\frac{1}{2}$.
- T. 19 N., R. 11 W.,
 Sec. 31, Lots 3, 4, E $\frac{1}{2}$ SW $\frac{1}{2}$.
- T. 23 N., R. 11 W.,
 Sec. 4, Lots 1-4, S $\frac{1}{2}$ N $\frac{1}{2}$, S $\frac{1}{2}$;
 Sec. 5, Lots 5-12;
 Sec. 6, Lots 17-23;
 Sec. 7, Lot 11;
 Sec. 8, Lots 1-13;
 Sec. 9, Lots 1-8, N $\frac{1}{2}$;
 Sec. 17, Lots 1-3;
 Sec. 18, NW $\frac{1}{2}$ SE $\frac{1}{2}$, SE $\frac{1}{2}$ SW $\frac{1}{2}$.
- T. 13 N., R. 12 W.,
 Sec. 7, Lot 3;
 Sec. 18, Lot 1.
- T. 14 N., R. 12 W.,
 Sec. 30, Lot 1.
- T. 18 N., R. 12 W.,
 Sec. 2, Lot 4;
 Sec. 5, Lots 2-4, E $\frac{1}{2}$ Lot 5, W $\frac{1}{2}$ Lot 6;
 Sec. 8, N $\frac{1}{2}$ S $\frac{1}{2}$, SE $\frac{1}{2}$ SW $\frac{1}{2}$, SW $\frac{1}{2}$ SE $\frac{1}{2}$;
 Sec. 9, N $\frac{1}{2}$ SW $\frac{1}{2}$;
 Sec. 12, E $\frac{1}{2}$ NE $\frac{1}{2}$;
 Sec. 13, S $\frac{1}{2}$ SW $\frac{1}{2}$, NW $\frac{1}{2}$ SW $\frac{1}{2}$, SW $\frac{1}{2}$ NW $\frac{1}{2}$;
 Sec. 14, N $\frac{1}{2}$ S $\frac{1}{2}$, SE $\frac{1}{2}$ SE $\frac{1}{2}$, SW $\frac{1}{2}$ SW $\frac{1}{2}$,
 S $\frac{1}{2}$ NE $\frac{1}{2}$, SE $\frac{1}{2}$ NW $\frac{1}{2}$;
 Sec. 15, SE $\frac{1}{2}$ SE $\frac{1}{2}$;
 Sec. 19, Lot 5;
 Sec. 20, NW $\frac{1}{2}$ NE $\frac{1}{2}$, SE $\frac{1}{2}$ SE $\frac{1}{2}$;
 Sec. 21, SW $\frac{1}{2}$ SW $\frac{1}{2}$;
 Sec. 22, E $\frac{1}{2}$ NE $\frac{1}{2}$;
 Sec. 23, NW $\frac{1}{2}$ NW $\frac{1}{2}$, NE $\frac{1}{2}$ NE $\frac{1}{2}$;
 Sec. 24, NW $\frac{1}{2}$, NW $\frac{1}{2}$ SW $\frac{1}{2}$, NE $\frac{1}{2}$ SE $\frac{1}{2}$,
 SW $\frac{1}{2}$ SE $\frac{1}{2}$;
 Sec. 25, NE $\frac{1}{2}$, N $\frac{1}{2}$ NW $\frac{1}{2}$, N $\frac{1}{2}$ SE $\frac{1}{2}$;
 Sec. 29, NE $\frac{1}{2}$ NE $\frac{1}{2}$;
 Sec. 30, Lot 15;
 Sec. 32, SW $\frac{1}{2}$ NE $\frac{1}{2}$.
- T. 19 N., R. 12 W.,
 Sec. 6, Lots 2, 10, SE $\frac{1}{2}$ NE $\frac{1}{2}$;
 Sec. 7, Lots 2-8, E $\frac{1}{2}$ SW $\frac{1}{2}$, W $\frac{1}{2}$ SE $\frac{1}{2}$;
- Sec. 18, Lots 2-9, 11-14, E $\frac{1}{2}$ SW $\frac{1}{2}$, W $\frac{1}{2}$ SE $\frac{1}{2}$,
 NE $\frac{1}{2}$ SE $\frac{1}{2}$;
 Sec. 19, N $\frac{1}{2}$ Lot 1 of NW $\frac{1}{2}$;
 Sec. 24, Lots 1, 2;
 Sec. 25, Lots 2, 5-7, N $\frac{1}{2}$ SW $\frac{1}{2}$, SE $\frac{1}{2}$ SW $\frac{1}{2}$,
 NW $\frac{1}{2}$ SE $\frac{1}{2}$;
 Sec. 28, E $\frac{1}{2}$ SW $\frac{1}{2}$;
 Sec. 33, NE $\frac{1}{2}$ SW $\frac{1}{2}$;
 Sec. 35, SE $\frac{1}{2}$ SW $\frac{1}{2}$.
- T. 20 N., R. 12 W.,
 Sec. 18, N $\frac{1}{2}$ Lot 1, N $\frac{1}{2}$ Lot 2, NW $\frac{1}{2}$ NE $\frac{1}{2}$;
 Sec. 19, Lots 11, 15;
 Sec. 30, Lots 1, 2, 4-6, 8, 11-15;
 Sec. 31, Lots 1, 2, 4-9, E $\frac{1}{2}$ NW $\frac{1}{2}$, W $\frac{1}{2}$ NE $\frac{1}{2}$.
- T. 13 N., R. 13 W.,
 Sec. 2, Lot 1, S $\frac{1}{2}$ NE $\frac{1}{2}$, SE $\frac{1}{2}$ NW $\frac{1}{2}$, E $\frac{1}{2}$ SW $\frac{1}{2}$,
 NW $\frac{1}{2}$ SE $\frac{1}{2}$;
 Sec. 9, NE $\frac{1}{2}$ SW $\frac{1}{2}$;
 Sec. 12, SW $\frac{1}{2}$ NE $\frac{1}{2}$, SE $\frac{1}{2}$ NW $\frac{1}{2}$;
 Sec. 13, NE $\frac{1}{2}$ SW $\frac{1}{2}$.
- T. 14 N., R. 13 W.,
 Sec. 4, Lot 4, SW $\frac{1}{2}$ NW $\frac{1}{2}$, NW $\frac{1}{2}$ SW $\frac{1}{2}$;
 Sec. 5, S $\frac{1}{2}$, S $\frac{1}{2}$ NE $\frac{1}{2}$;
 Sec. 6, Lot 3;
 Sec. 8, NE $\frac{1}{2}$, N $\frac{1}{2}$ S $\frac{1}{2}$, N $\frac{1}{2}$ NW $\frac{1}{2}$, SE $\frac{1}{2}$ NW $\frac{1}{2}$;
 Sec. 9, W $\frac{1}{2}$ W $\frac{1}{2}$, W $\frac{1}{2}$ NE $\frac{1}{2}$, SE $\frac{1}{2}$ NE $\frac{1}{2}$,
 NE $\frac{1}{2}$ NW $\frac{1}{2}$, N $\frac{1}{2}$ SE $\frac{1}{2}$, SE $\frac{1}{2}$ SE $\frac{1}{2}$;
 Sec. 18, N $\frac{1}{2}$ SE $\frac{1}{2}$;
 Sec. 24, SW $\frac{1}{2}$ NW $\frac{1}{2}$;
 Sec. 34, NE $\frac{1}{2}$ NW $\frac{1}{2}$.
- T. 15 N., R. 13 W.,
 Sec. 23, E $\frac{1}{2}$ NW $\frac{1}{2}$;
 Sec. 26, NW $\frac{1}{2}$ SE $\frac{1}{2}$;
 Sec. 29, SW $\frac{1}{2}$, S $\frac{1}{2}$ NW $\frac{1}{2}$, W $\frac{1}{2}$ SE $\frac{1}{2}$;
 Sec. 30, Lots 4-12, S $\frac{1}{2}$ NE $\frac{1}{2}$, S $\frac{1}{2}$ SE $\frac{1}{2}$;
 Sec. 31, Lots 1-5, 7, 8, E $\frac{1}{2}$ NE $\frac{1}{2}$, NW $\frac{1}{2}$ NE $\frac{1}{2}$,
 N $\frac{1}{2}$ SE $\frac{1}{2}$;
 Sec. 32, S $\frac{1}{2}$, NW $\frac{1}{2}$, W $\frac{1}{2}$ NE $\frac{1}{2}$, SE $\frac{1}{2}$ NE $\frac{1}{2}$.
- T. 18 N., R. 13 W.,
 Sec. 15, SW $\frac{1}{2}$ NW $\frac{1}{2}$;
 Sec. 24, SW $\frac{1}{2}$ SW $\frac{1}{2}$;
 Sec. 25, Lot 3.
- T. 19 N., R. 13 W.,
 Sec. 1, Lots 3, 4, 16;
 Sec. 3, W $\frac{1}{2}$ Lot 5;
 Sec. 4, E $\frac{1}{2}$ Lot 8, Lot 9, N $\frac{1}{2}$ SW $\frac{1}{2}$, NW $\frac{1}{2}$ SE $\frac{1}{2}$,
 S $\frac{1}{2}$ SE $\frac{1}{2}$;
 Sec. 5, Lots 1, 2, W $\frac{1}{2}$ Lot 6, W $\frac{1}{2}$ Lot 7, W $\frac{1}{2}$
 Lot 10;
 Sec. 6, Lot 14, NE $\frac{1}{2}$ SW $\frac{1}{2}$, NW $\frac{1}{2}$ SE $\frac{1}{2}$;
 Sec. 9, N $\frac{1}{2}$ NE $\frac{1}{2}$, SE $\frac{1}{2}$ NE $\frac{1}{2}$;
 Sec. 10, SW $\frac{1}{2}$ NE $\frac{1}{2}$, SE $\frac{1}{2}$ NW $\frac{1}{2}$, W $\frac{1}{2}$ NW $\frac{1}{2}$,
 NW $\frac{1}{2}$ SW $\frac{1}{2}$;
 Sec. 11, Lot 13;
 Sec. 12, Lots 1, 9, 10, 15, 16;
 Sec. 13, Lots 1, 13;
 Sec. 14, Lots 15, 16;
 Sec. 15, W $\frac{1}{2}$ SW $\frac{1}{2}$;
 Sec. 22, NW $\frac{1}{2}$ NE $\frac{1}{2}$, N $\frac{1}{2}$ NW $\frac{1}{2}$, SE $\frac{1}{2}$ NW $\frac{1}{2}$;
 Sec. 23, Lot 1;
 Sec. 24, Lots 4, 13;
 Sec. 25, Lots 4, 5, 13;
 Sec. 34, NE $\frac{1}{2}$ SE $\frac{1}{2}$, SW $\frac{1}{2}$ SE $\frac{1}{2}$;
 Sec. 35, Lot 13.
- T. 20 N., R. 13 W.,
 Sec. 1, S $\frac{1}{2}$;
 Sec. 2, SW $\frac{1}{2}$, S $\frac{1}{2}$ SE $\frac{1}{2}$, NE $\frac{1}{2}$ SE $\frac{1}{2}$;
 Sec. 9, NE $\frac{1}{2}$ NE $\frac{1}{2}$;
 Sec. 10, W $\frac{1}{2}$ NE $\frac{1}{2}$, S $\frac{1}{2}$ NW $\frac{1}{2}$, N $\frac{1}{2}$ SW $\frac{1}{2}$;
 Sec. 11, NE $\frac{1}{2}$ NW $\frac{1}{2}$;
 Sec. 12, E $\frac{1}{2}$ NE $\frac{1}{2}$, SE $\frac{1}{2}$;
 Sec. 13, N $\frac{1}{2}$ NE $\frac{1}{2}$, NE $\frac{1}{2}$ NW $\frac{1}{2}$, SW $\frac{1}{2}$ NW $\frac{1}{2}$,
 W $\frac{1}{2}$ SW $\frac{1}{2}$, SE $\frac{1}{2}$ SW $\frac{1}{2}$, SW $\frac{1}{2}$ SE $\frac{1}{2}$;
 Sec. 14, S $\frac{1}{2}$ N $\frac{1}{2}$, S $\frac{1}{2}$;
 Sec. 15, SE $\frac{1}{2}$ NW $\frac{1}{2}$, E $\frac{1}{2}$ SE $\frac{1}{2}$;
 Sec. 17, W $\frac{1}{2}$ SW $\frac{1}{2}$, SE $\frac{1}{2}$ SW $\frac{1}{2}$;
- Sec. 18, Lots 7, 12, SE $\frac{1}{2}$;
 Sec. 19, Lot 12, N $\frac{1}{2}$ NE $\frac{1}{2}$, SE $\frac{1}{2}$ NE $\frac{1}{2}$, SE $\frac{1}{2}$;
 Sec. 20, W $\frac{1}{2}$ NW $\frac{1}{2}$, SE $\frac{1}{2}$ NW $\frac{1}{2}$, SW $\frac{1}{2}$,
 W $\frac{1}{2}$ SE $\frac{1}{2}$;
 Sec. 22, E $\frac{1}{2}$ SE $\frac{1}{2}$;
 Sec. 23, All;
 Sec. 24, W $\frac{1}{2}$;
 Sec. 25, S $\frac{1}{2}$ NE $\frac{1}{2}$, W $\frac{1}{2}$, SE $\frac{1}{2}$;
 Sec. 26, E $\frac{1}{2}$, E $\frac{1}{2}$ W $\frac{1}{2}$, SW $\frac{1}{2}$ NW $\frac{1}{2}$;
 Sec. 27, SE $\frac{1}{2}$ NE $\frac{1}{2}$, E $\frac{1}{2}$ E $\frac{1}{2}$ SE $\frac{1}{2}$;
 Sec. 29, SE $\frac{1}{2}$ NE $\frac{1}{2}$, W $\frac{1}{2}$ E $\frac{1}{2}$, W $\frac{1}{2}$, E $\frac{1}{2}$ SE $\frac{1}{2}$;
 Sec. 30, Lot 1, N $\frac{1}{2}$ NE $\frac{1}{2}$, SE $\frac{1}{2}$ NE $\frac{1}{2}$, E $\frac{1}{2}$ SE $\frac{1}{2}$,
 SW $\frac{1}{2}$ SE $\frac{1}{2}$;
 Sec. 31, Lots 1-6, 8, 9, NE $\frac{1}{2}$;
 Sec. 32, E $\frac{1}{2}$ NE $\frac{1}{2}$, NW $\frac{1}{2}$ NE $\frac{1}{2}$, NE $\frac{1}{2}$ MW $\frac{1}{2}$,
 W $\frac{1}{2}$ NW $\frac{1}{2}$, S $\frac{1}{2}$;
 Sec. 33, NW $\frac{1}{2}$ SW $\frac{1}{2}$;
 Sec. 35, E $\frac{1}{2}$, NE $\frac{1}{2}$ NW $\frac{1}{2}$, E $\frac{1}{2}$ SW $\frac{1}{2}$;
- T. 21 N., R. 13 W.,
 Sec. 3, Lot 3, N $\frac{1}{2}$ SW $\frac{1}{2}$, S $\frac{1}{2}$ NW $\frac{1}{2}$;
 Sec. 4, Lot 3, SE $\frac{1}{2}$ NE $\frac{1}{2}$;
 Sec. 13, Lots 2, 3;
 Sec. 14, Lots 1, 2, 6;
 Sec. 15, Lots 1, 4;
 Sec. 18, Lot 4;
 Sec. 20, NE $\frac{1}{2}$ NW $\frac{1}{2}$;
 Sec. 22, Lots 1, 3-8;
 Sec. 23, Lots 3-7, 9-15;
 Sec. 24, Lots 5, 8.
- T. 22 N., R. 13 W.,
 Sec. 4, Lot 2, S $\frac{1}{2}$ SW $\frac{1}{2}$, SW $\frac{1}{2}$ SE $\frac{1}{2}$;
 Sec. 5, Lot 1, SE $\frac{1}{2}$ NE $\frac{1}{2}$, SE $\frac{1}{2}$ SW $\frac{1}{2}$;
 Sec. 8, E $\frac{1}{2}$, E $\frac{1}{2}$ NW $\frac{1}{2}$, NE $\frac{1}{2}$ SW $\frac{1}{2}$;
 Sec. 9, W $\frac{1}{2}$, W $\frac{1}{2}$ E $\frac{1}{2}$;
 Sec. 17, N $\frac{1}{2}$ NE $\frac{1}{2}$, SW $\frac{1}{2}$ NE $\frac{1}{2}$, NW $\frac{1}{2}$ SE $\frac{1}{2}$;
 Sec. 21, N $\frac{1}{2}$ NE $\frac{1}{2}$, SW $\frac{1}{2}$ NE $\frac{1}{2}$, SW $\frac{1}{2}$ SE $\frac{1}{2}$;
 Sec. 28, NW $\frac{1}{2}$ NE $\frac{1}{2}$, NW $\frac{1}{2}$ NW $\frac{1}{2}$;
 Sec. 33, W $\frac{1}{2}$ SE $\frac{1}{2}$, SW $\frac{1}{2}$ NE $\frac{1}{2}$.
- T. 13 N., R. 14 W.,
 Sec. 28, E $\frac{1}{2}$ NW $\frac{1}{2}$.
- T. 14 N., R. 14 W.,
 Sec. 1, SE $\frac{1}{2}$ NE $\frac{1}{2}$;
 Sec. 2, SW $\frac{1}{2}$ NW $\frac{1}{2}$;
 Sec. 3, Lot 3, SE $\frac{1}{2}$ SW $\frac{1}{2}$;
 Sec. 24, N $\frac{1}{2}$ NE $\frac{1}{2}$.
- T. 15 N., R. 14 W.,
 Sec. 13, S $\frac{1}{2}$ N $\frac{1}{2}$;
 Sec. 24, NW $\frac{1}{2}$ NE $\frac{1}{2}$;
 Sec. 34, S $\frac{1}{2}$ SW $\frac{1}{2}$.
- T. 16 N., R. 14 W.,
 Sec. 10, Lots 1-3;
 Sec. 11, SW $\frac{1}{2}$ SW $\frac{1}{2}$;
 Sec. 14, N $\frac{1}{2}$ NW $\frac{1}{2}$, SW $\frac{1}{2}$ NW $\frac{1}{2}$, NW $\frac{1}{2}$ SW $\frac{1}{2}$;
 Sec. 15, Lot 1;
 Sec. 22, SW $\frac{1}{2}$ SW $\frac{1}{2}$;
 Sec. 26, SW $\frac{1}{2}$ NE $\frac{1}{2}$, S $\frac{1}{2}$ NW $\frac{1}{2}$;
 Sec. 27, SE $\frac{1}{2}$ NE $\frac{1}{2}$;
 Sec. 28, SW $\frac{1}{2}$ NE $\frac{1}{2}$, SE $\frac{1}{2}$ NW $\frac{1}{2}$;
 Sec. 35, N $\frac{1}{2}$ SW $\frac{1}{2}$.
- T. 20 N., R. 14 W.,
 Sec. 24, SE $\frac{1}{2}$ SE $\frac{1}{2}$;
 Sec. 25, NE $\frac{1}{2}$ SE $\frac{1}{2}$, S $\frac{1}{2}$ SE $\frac{1}{2}$, SE $\frac{1}{2}$ SW $\frac{1}{2}$.
- T. 21 N., R. 14 W.,
 Sec. 4, Lots 1, 2, S $\frac{1}{2}$ NE $\frac{1}{2}$, E $\frac{1}{2}$ SE $\frac{1}{2}$,
 SW $\frac{1}{2}$ NW $\frac{1}{2}$, N $\frac{1}{2}$ SW $\frac{1}{2}$;
 Sec. 5, Lot 1, SE $\frac{1}{2}$ NE $\frac{1}{2}$;
 Sec. 6, Lots 2-7, SE $\frac{1}{2}$ NW $\frac{1}{2}$, E $\frac{1}{2}$ SW $\frac{1}{2}$,
 SW $\frac{1}{2}$ SE $\frac{1}{2}$;
 Sec. 12, S $\frac{1}{2}$ SE $\frac{1}{2}$;
 Sec. 13, NW $\frac{1}{2}$ NE $\frac{1}{2}$.
- T. 22 N., R. 14 W.,
 Sec. 4, SE $\frac{1}{2}$ SW $\frac{1}{2}$;
 Sec. 5, Lots 7, 14, NW $\frac{1}{2}$ SW $\frac{1}{2}$;
 Sec. 6, Lots 4, 13, 14, 16, 17, NE $\frac{1}{2}$ SE $\frac{1}{2}$,
 SW $\frac{1}{2}$ SE $\frac{1}{2}$;

Sec. 7, Lots 1-6, S½NE¼, SE¼;
 Sec. 9, E½NW¼, NE¼SW¼, SW¼SW¼;
 Sec. 17, SW¼NW¼;
 Sec. 18, Lots 1-6, S½NE¼, SW¼SE¼;
 Sec. 19, Lots 1-3, 5, 8, NW¼NE¼, SE¼SE¼;
 Sec. 20, N½SW¼, W¼SE¼, SE¼SE¼;
 Sec. 21, SE¼SW¼, NE¼NE¼;
 Sec. 22, W¼NW¼, SE¼NW¼;
 Sec. 23, NE¼NE¼;
 Sec. 27, S½SW¼;
 Sec. 28, E¼E¼, SW¼SE¼, W¼NW¼;
 Sec. 29, Lots 1, 3-6, 8-12, NE¼;
 Sec. 32, Lots 3, 4, 7, 8, SE¼;
 Sec. 33, NW¼NE¼;
 Sec. 34, N½NW¼, SE¼NW¼.
 T. 23 N., R. 14 W.,
 Sec. 30, Lot 3, N½, Lot 5, N½, Lot 6;
 Sec. 33, NW¼NW¼.
 T. 13 N., R. 15 W.,
 Sec. 10, SW¼SE¼.
 T. 14 N., R. 15 W.,
 Sec. 30, NE¼;
 Sec. 32, SW¼NE¼, E¼NW¼, SW¼NW¼,
 NW¼SW¼.
 T. 21 N., R. 15 W.,
 Sec. 1, E½ Lot 2 of NE¼.
 T. 22 N., R. 15 W.,
 Sec. 1, Lots 5, 7-14;
 Sec. 12, Lots 1-8;
 Sec. 13, Lots 1, 2, 7-10, 15, 16;
 Sec. 24, Lots 1-4.
 T. 23 N., R. 15 W.,
 Sec. 3, SW¼SE¼;
 Sec. 10, Lots 1, 2;
 Sec. 13, Lots 1-12, SW¼;
 Sec. 17, SW¼;
 Sec. 18, NE¼SE¼;
 Sec. 20, NW¼NE¼, N½NW¼, SW¼NW¼;
 Sec. 21, SE¼SW¼;
 Sec. 24, Lots 1-8, W¼NE¼, NW¼,
 NE¼SW¼, NW¼SE¼;
 Sec. 26, S½SE¼;
 Sec. 28, W¼NE¼;
 Sec. 32, Lots 3-6, SE¼NE¼.
 T. 13 N., R. 16 W.,
 Sec. 1, Lots 1, 6, P, 9;
 Sec. 9, NE¼NE¼, NE¼SW¼;
 Sec. 22, SE¼NW¼.
 T. 14 N., R. 16 W.,
 Sec. 10, NW¼NE¼;
 Sec. 21, SE¼SW¼;
 Sec. 24, N½SW¼;
 Sec. 28, NE¼NW¼;
 Sec. 31, NW¼SE¼.
 T. 20 N., R. 16 W.,
 Sec. 7, Lot 4.
 T. 20 N., R. 17 W.,
 Sec. 1, Lots 5, 6.
 The area aggregates 37,526.98 acres.

The following listed corporations and individuals are holders of valid leases, permits, and/or rights-of-way on the public lands described above:

S 437: 66-foot wide road right-of-way to U.S. Forest Service.
 S 039594: 40-foot wide power line right-of-way under the act of March 4, 1911 to the Pacific Gas and Electric Company.
 CA 259: 100-foot wide road right-of-way to Bureau of Land Management.
 CA 3088: 100-foot wide road right-of-way to Bureau of Land Management.

5508 Grazing lease to Mr. Edwin Phillips dba Phillips Land and Cattle Company.

CA-050-TS1-0002: Salt Creek Timber Sale to Louisiana-Pacific Corp. Sale will terminate on May 28, 1984.

Ham Pass Timber Sale: Sold on May 27, 1982 with a 36-month term to the Harwood Investment Company. Execution of sale may be delayed by protest from the Louisiana-Pacific Corporation.

b. Lands available for State Indemnity Selection only with revocation of the wild and scenic rivers protective withdrawal under section 8 of the act of October 2, 1968 (P. L. 90-542) as amended, and to the opening subject to Section 24 of the Federal Power Act of the withdrawal by Secretarial Order dated November 26, 1921 for Power Site Classification 14:

Mount Diablo Meridian

T. 21 N., R. 13 W.,
 Sec. 3, SE¼, S½SW¼;
 Sec. 4, SW¼NE¼, SE¼.

T. 22 N., R. 14 W.,
 Sec. 13, SW¼SW¼;
 Sec. 24, NW¼NW¼, SW¼NE¼.

T. 23 N., R. 14 W.,
 Sec. 21, Lots 4, 5;
 Sec. 28, Lots 1, 2.

T. 24 N., R. 14 W.,
 Sec. 32, Lots 2, 3.

The area aggregates 693.22 acres.

The following listed corporations and individuals are holders of valid leases, permits, and/or rights-of-way on the public lands described above:

S 3334: 200-foot wide railroad right-of-way under the act of March 3, 1875 the California Northwest Pacific Railroad (Southern Pacific Transportation Company).

c. Lands available for State Indemnity Lieu Selection only with revocation of the wild and scenic rivers protective withdrawal under section 8 of the act of October 2, 1968 (Pub. L. 542) as amended:

Mount Diablo Meridian

T. 18 N., R. 12 W.,
 Sec. 2, Lot 3.

T. 19 N., R. 12 W.,
 Sec. 6, Lots 3, 4, 5, 11, SE¼NW¼, SW¼NE¼;
 Sec. 7, Lot 1, S½NE¼, SE¼NW¼, SE¼SE¼;
 Sec. 17, SW¼NW¼, NW¼SW¼;

Sec. 18, Lots 1, 10;
 Sec. 35, SE¼SE¼.

T. 19 N., R. 13 W.,
 Sec. 1, Lots 1, 2, 6-11, 15.

T. 20 N., R. 13 W.,
 Sec. 4, SW¼SE¼;
 Sec. 9, SW¼NE¼;
 Sec. 10, SW¼SW¼;
 Sec. 15, W¼NW¼, N½SW¼, SE¼SW¼,
 W¼SE¼;
 Sec. 22, W¼NE¼, NE¼NW¼, NE¼SW¼,
 W¼SE¼;

Sec. 27, W¼E¼SE¼.

T. 22 N., R. 14 W.,

Sec. 24, NE¼SE¼.

T. 23 N., R. 14 W.,

Sec. 28, W¼NE¼, NW¼SE¼.

The area aggregates 1,855.65 acres.

The following list of corporations and individuals are holders of valid leases, permits, and/or rights-of-way on the public lands described above:

S 3334: 200-foot wide railroad right-of-way under the act of March 3, 1875 to California Northwest Pacific Railroad (Southern Pacific Transportation Company).

S 039594: 40-foot wide electric transmission line right-of-way under the act of March 4, 1911 to Pacific Gas and Electric Company.

d. Lands available for State Indemnity Selection only with the opening subject to Section 24 of the Federal Power Act of the withdrawal by Executive Order dated October 30, 1911 for Power Site Reservation 218:

Mount Diablo Meridian

T. 18 N., R. 11 W.,

Sec. 27, SE¼SE¼;

Sec. 28, NE¼SE¼;

Sec. 34, NW¼NW¼.

The area aggregates 120.00 acres.

There are no holders of valid leases, permits, and/or rights-of-way on the public lands described above.

4. This classification decision is based on the following disposal criteria set forth in Title 43, Code of Federal Regulations, Part 2400.

Transfer of the lands to the State will help fulfill the Federal Government's common school land grant to the State, and constitutes a public purpose use of the land. Lands found to be valuable for a public purpose use will be considered chiefly valuable for public purposes (43 CFR 2430.2b).

Rights-of-way granted by the Bureau of Land Management on the above described lands will transfer with the land or may be reserved to the United States in accordance with Section 508 of the Act of October 21, 1976 (90 Stat. 2743; 43 U.S.C. 1768). Timber sales will remain in effect under the terms and conditions of the sales. Upon expiration or termination of the sales, or any authorized extensions thereof, such rights shall automatically vest in the State.

A portion of the subject lands are under grazing lease to Edwin McC. Phillips, dba Phillips Land and Cattle Company, 24777 East Lane, Covelo, California 95428, and there are no range improvements of record on the lands under lease.

In the event these lands are clearlisted, the grazing lease will be terminated no later than February 23, 1984.

Threatened and Endangered Species and Cultural Resources Evaluations have been performed and approved for subject classifications. Any cultural resources will be managed by the State Lands Commission in coordination with the California State Historic Preservation Officer pursuant to E.O. B-64-80 and section 5024 of the Public Resources Code and in coordination with the Cooperative Agreement Between the Bureau of Land Management, Department of Interior, the California State Historic Preservation Officer and the California State Lands Commission Regarding the Transfer of Federal Lands to the State of California.

A study has been made of the area which indicates little potential for mineral exploration. There are no mining claims recorded with BLM for these lands, nor was any evidence of mining activity found on the ground.

6. The transfer of the lands described in paragraph 3 above is mandated by Revised Statutes 2275 and 2276. Therefore, this action is excepted from the disposal restrictions of Executive Order 11988 of May 24, 1977, pertaining to floodplain management. In the management or disposition of the above described lands by the State of California, the State will subject those lands identified as base floodplain lands to such terms, covenants, conditions and reservations as deemed necessary to ensure proper land use and protection of the public interest and floodplains.

7. The public lands classified by this notice are shown on maps on file and available for inspection in the Ukiah District Office, 555 Leslie Street (P.O. Box 940), Ukiah, California 95482-0940, and in the California State Office (BLM), Federal Office Building, 2800 Cottage Way, Room E-2841, Sacramento, California 95825.

8. Until July 12, 1982, this classification will be subject to exercise of administrative review and modification by the Secretary of the Interior as provided for in 43 CFR 2461.3 and 2462.3. Interested parties may submit comments to the Secretary of the Interior, LLM 320, Washington, D.C. 20240.

Dated: June 1, 1982.

For State Director.

Edwin G. Kathas,

Acting Ukiah District Manager.

[FR Doc. 82-15625 Filed 6-10-82; 8:45 am]

BILLING CODE 4310-84-M

Fish and Wildlife Service

Intent To Prepare an Environmental Impact Statement on the Proposed State-Federal Land Exchange Involving Portions of False Cape State Park and Back Bay National Wildlife Refuge Located in Virginia Beach, Virginia

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: This Notice advises the public that the Fish and Wildlife Service intends to gather information necessary for the preparation of an Environmental Impact Statement (EIS) for the Proposed State-Federal Land Exchange involving False Cape State Park and Back Bay National Wildlife Refuge in Virginia. Two public meetings regarding this proposal and preparation of the EIS will also be held. This Notice is being furnished as required by the National Environmental Policy Act (NEPA) Regulations (40 CFR 1501.7) to obtain suggestions and information from other agencies and the public on the scope of issues to be addressed in the EIS. Comments and participation in this scoping process are solicited.

DATES: A public meeting will be held in Richmond, Virginia, on July 12, 1982, at 7:30 p.m. at Virginia War Memorial Auditorium, 621 Belvedere Street, Richmond, Virginia 23220. A second public meeting will be held on July 13, 1982, at 7:30 p.m. at Virginia Beach Pavilion, 1000 19th Street, Virginia Beach, Virginia 23458. Oral presentations shall be limited to ten (10) minutes; written statements may be submitted if the ten (10) minute limitation is deemed to be inadequate to present all of the information that a given witness has to offer. Written comments on the scope of the EIS must be received by July 15, 1982.

ADDRESSES: Persons interested in making an oral presentation at the public meeting should call or write Mr. William C. Ashe at the address given below. Those persons submitting a notice of intent to participate will be given first priority for oral presentations at the public meeting.

Written comments should be addressed to: Mr. Howard N. Larsen, Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158.

FOR FURTHER INFORMATION CONTACT: Mr. William C. Ashe, Deputy Regional Director, U.S. Fish and Wildlife Service, One Gateway Center Suite 700, Newton Corner, Massachusetts 02158,

Telephone: (617) 965-5100, extension 200—FTS 829-9200.

SUPPLEMENTARY INFORMATION: Mr. Walter Quist, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158, Telephone (617) 965-2300, is the primary author of this notice.

The Fish and Wildlife Service, Department of the Interior, proposes to exchange portions of Back Bay National Wildlife Refuge for portions of False Cape State Park. This is an attempt by the Service to work with the Commonwealth of Virginia to further the goals of both the park facility and the wildlife refuge. The EIS will examine various alternatives designed to provide limited access through the refuge to the park.

The environmental review of this project will be conducted in accordance with the Requirements of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4331 et seq.), Council on Environmental Quality Regulations (40 CFR Parts 1500-1508), other appropriate Federal regulations, and the Service procedures for compliance with those regulations.

We estimate the Draft EIS will be made available to the public by August 13, 1982.

Dated: June 8, 1982.

William C. Ashe,

Acting Regional Director.

[FR Doc. 82-15650 Filed 6-10-82; 8:45 am]

BILLING CODE 4310-55-M

Endangered Species Permit; Receipt of Applications; William Gruenerwald, et al.

The applicants listed below wish to conduct certain activities with endangered species:

Applicant: William Gruenerwald, Colorado Spring, CO; PRT 2-9230.

The applicant requests a permit to purchase in foreign commerce and import two captive-bred Asian wild asses (*Equus hemionus kulan*) for enhancement of propagation.

Applicant: Rare Feline Breeding Center, Center Hill, FL; PRT 2-9228.

The applicant requests a permit to export one female captive-born jaguar (*Panthera onca*) to the Bloemfontein City Zoo, South Africa, for enhancement of propagation.

Applicant: National Zoo, Washington, DC; PRT 2-6400.

The applicant requests an amendment to their permit to allow import of frozen serum, fixed blood smears and frozen semen of cheetah (*Acinonyx jubatus*)

from Africa instead of South Africa alone.

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 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 July 12, 1982, by submitting written data, views, or arguments to the above address. Please refer to the file number when submitting comments.

Dated: June 1, 1982.

R. K. Robinson,

Chief, Branch of Permits, Federal Wildlife Permit Office.

[FR Doc. 82-15896 Filed 6-10-82; 8:45 am]

BILLING CODE 4310-55-M

National Park Service

Kenia Fjords National Park, Alaska; Intent To Prepare a General Management Plan and Environmental Assessment and To Conduct Public Workshops and Scoping Meetings

AGENCY: National Park Service, Interior.
ACTION: Prepare a General Management Plan and Environmental Assessment and conduct public workshops and scoping meetings for Kenia Fjords National Park, Alaska.

Preliminary discussions will be held during the summer of 1982 to establish the major environmental issues to be addressed in the Environmental Assessment and to solicit ideas for the development of reasonable and practical alternatives. Public meetings will be held in the winter of 1983 following the official release of the draft General Management Plan and its Environmental Assessment. The time and place of these meetings will be announced in the regional news media.

SUMMARY: The National Park Service intends to prepare a General Management Plan for the conservation and management of Kenia Fjords National Park. The plan will chart the strategies for solving the park's problems and meeting its management objective over the next 10-15 years for resources management and protection, visitor use and interpretation, and general development at a level of detail that will, in most cases, authorize implementation. An Environmental Assessment will be prepared to present

feasible alternatives and to determine if the environmental consequences are significant enough to require the preparation of an environmental impact statement.

The planning effort will consider the alternate of continuing existing management (no action alternative); the alternative of providing the minimum actions required to meet the purpose of the area under Public Law 96-487 (Alaska National Interest Lands Conservation Act of 1980); and those reasonable and practical strategies developed during public and other agency participation in the planning process. Pub. L. 96-487 mandates that the plan will contain a review of wilderness suitability for those lands not already so designated by Congress.

FOR FURTHER INFORMATION CONTACT: Dave Moore, Superintendent, Kenia Fjord National Park, P.O. Box 1727, Seward, Alaska 99664, (907) 224-3874.

Douglas G. Warnock,

Acting Regional Director, Alaska Region.

[FR Doc. 82-15841 Filed 6-10-82; 8:45 am]

BILLING CODE 4310-70-M

Denali National Park and Preserve, Alaska; Intent To Prepare a General Management Plan and Environmental Assessment and To Conduct Public Workshops and Scoping Meetings

AGENCY: National Park Service, Interior.
ACTION: Prepare a General Management Plan and Environmental Assessment and conduct public workshops and scoping meetings for Denali National Park and Preserve, Alaska.

Preliminary discussions will be held during the summer of 1982 to establish the major environmental issues to be addressed in the Environmental Assessment and to solicit ideas for the development of reasonable and practical alternatives. Public meetings will be held in the winter of 1983. The time and place of these meetings will be announced in the regional news media.

SUMMARY: The National Park Service intends to prepare a General Management Plan for the conservation and management of Denali National Park and Preserve. The plan will chart the strategies for solving the park's problems and meeting its management objective over the next 10-15 years for resources management and protection, visitor use and interpretation, and general development at a level of detail that will, in most cases, authorize implementation. An Environmental Assessment will be prepared to present feasible alternatives and to determine if the environmental consequences are significant enough to require the

preparation of an environmental impact statement.

The planning effort will consider the alternate of continuing existing management (no action alternative); the alternative of providing the minimum actions required to meet the purpose of the area under Pub. L. 96-487 (Alaska National Interest Lands Conservation Act of 1980); and those reasonable and practical strategies developed during public and other agency participation in the planning process. Public Law 96-487 mandates that the plan will contain a review of wilderness suitability for those lands not already so designated by Congress.

FOR FURTHER INFORMATION CONTACT:

Robert Cunningham, Superintendent, Denali National Park and Preserve, P.O. Box 9, McKinley Park, Alaska 99755, (907) 683-2294.

Douglas G. Warnock,

Acting Regional Director, Alaska Region.

[FR Doc. 82-15842 Filed 6-10-82; 8:45 am]

BILLING CODE 4310-70-M

Texas, Seis Pros, Incorporated, Big Thicket National Preserve; Availability of Plan of Operations and Environmental Analysis for the Purpose of Conducting Geophysical Exploration

Notice is hereby given in accordance with § 9.52(b) of Title 36 of the Code of Federal Regulations that the National Park Service has received from Seis Pros, Incorporated, a plan of operations for the purpose of conducting geophysical exploration in the Lance Rosier Unit of Big Thicket National Preserve, Texas.

The Plan of Operations and Environmental Analysis are available for public review and comment until July 12, 1982 in the Office of the Superintendent, Big Thicket National Preserve, 8185 Eastex Freeway, Beaumont, Texas; the Jefferson County Courthouse, in Beaumont, Texas; and the Southwest Regional Office, National Park Service, 1100 Old Santa Fe Trail, Santa Fe, New Mexico. Copies of the document are available from the Southwest Regional Office, National Park Service, Post Office Box 728, Santa Fe, New Mexico 87501, and will be sent upon request.

Dated: May 28, 1982.

Robert Kerr,

Regional Director, Southwest Region.

[FR Doc. 82-15838 Filed 6-10-82; 8:45 am]

BILLING CODE 4310-70-M

Upper Delaware National Scenic and Recreational River

AGENCY: National Park Service; Upper Delaware Citizens Advisory Council, Interior.

ACTION: Notice of Meeting.

SUMMARY: This notice sets forth the date of the forthcoming meeting of the Upper Delaware Citizens Advisory Council. Notice of this meeting is required under the Federal Advisory Committee Act.

DATE: June 25, 1982, 7 p.m.

ADDRESS: Arlington Hotel, Narrowsburg, New York.

FOR FURTHER INFORMATION CONTACT: John T. Hutzky, Superintendent, Upper Delaware National Scenic and Recreational River, Drawer C, Narrowsburg, N.Y. 12764-0159 (717/729-7135).

SUPPLEMENTARY INFORMATION: The Advisory Council was established under section 704(f) of the National Parks and Recreation Act of 1978, Pub. L. 95-625, 16 U.S.C. 1274 note, to encourage maximum public involvement in the development and implementation of the plans and programs authorized by the Act. The Council is to meet and report to the Delaware River Basin Commission, the Secretary of the Interior, and the Governors of New York and Pennsylvania in the preparation of a management plan and on programs which relate to land and water use in the Upper Delaware region. The agenda for the meeting will include review of Draft Management Plan.

The meeting will be open to the public. Any member of the public may file with the Council a written statement concerning agenda items. The statement should be addressed to the Council c/o Upper Delaware National Scenic and Recreational River, Drawer C, Narrowsburg, N.Y. 12764-0159. Minutes of the meeting will be available for inspection four weeks after the meeting at the permanent headquarters of the Upper Delaware National Scenic and Recreational River, River Road, 1½ miles north of Narrowsburg, N.Y., Damascus Township, Pennsylvania.

Dated: June 3, 1982.

Don H. Castleberry,
Acting Regional Director, Mid-Atlantic Region.

[FR Doc. 82-15844 Filed 6-10-82; 8:45 am]

BILLING CODE 4310-70-M

Wyoming; Proposed Land Exchange in Teton and Carbon Counties

AGENCY: National Park Service and Bureau of Land Management, Interior.

ACTION: Availability of environmental assessment.

SUMMARY: On March 5, 1982, the Bureau of Land Management announced in the Federal Register (Vol. 47, No. 44, p. 9581) a land exchange proposal between Rocky Mountain Energy Co. and the United States. The exchange of land would benefit the National Park Service inasmuch as the land to be acquired by the United States is situated within Grand Teton National Park.

The National Park Service announces the availability of an environmental assessment which analyzes the environmental consequences of the proposed exchange. The assessment addresses two alternatives: the proposal, and no action. The environment of the lands involved is briefly described. The document evaluates the impacts which the alternatives would have on the environment, together with measures that could be taken to mitigate impacts.

The public is invited to express its views on this assessment. Comments will be received for a period of 30 days following publication of this notice. The comments may be sent to Mr. Bob Kasperek, Compliance Officer, Rocky Mountain Regional Office, National Park Service, 655 Parfet Street, P.O. Box 25287, Denver, Colorado 80225; telephone 303-234-4942. Copies of the assessment may be obtained from the above office, from the District Manager, Bureau of Land Management, P.O. Box 670, 1300 Third Street, Rawlins, Wyoming 82301; and from the Superintendent, Grand Teton National Park, P.O. Drawer 170, Moose, Wyoming 83012.

Dated: June 3, 1982.

James B. Thompson,
Acting Regional Director, Rocky Mountain Region.

[FR Doc. 82-15843 Filed 6-10-82; 8:45 am]

BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION**Intent To Engage in Compensated Intercorporate Hauling Operations**

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

1. Parent corporation and address of principal office: Esmark, Inc., 55 East Monroe Street, Chicago, Illinois 60603.

2. Wholly-owned subsidiaries which will participate in the operations, and State(s) of incorporation:

- (1) Swift & Company (Delaware).
- (2) Strongheart Products, Inc. (Delaware).
- (3) Estech, Inc. (Delaware).
- (4) Weskem, Inc. (Nebraska).
- (5) Eschem, Inc. (Delaware).
- (6) Cross Adhesives, Inc. (Delaware).
- (7) National Wax Company (Illinois).
- (8) International Playtex, Inc. (Delaware).
- (9) Danskin, Inc. (Delaware).
- (10) Danskin Florida, Inc. (Delaware).
- (11) Danskin Texas, Inc. (Delaware).
- (12) Pennaco Hosiery, Inc. (Delaware).
- (13) Virginia Maid Hosiery Mills, Inc. (Virginia).
- (14) Playtex Export Corporation (Delaware).
- (15) Milky Way Products Company (Delaware).
- (16) BG Marketing Corp. (Delaware).
- (17) Mayfield Laboratories, Inc. (Delaware).
- (18) Tailby-Nason Company, Inc. (Delaware).
- (19) IPI Texas (Delaware).
- (20) Jhirmack Enterprises, Inc. (California).
- (21) STP Corporation (Delaware).
- (22) Estronics, Inc. (Delaware).
- (23) International Jensen Incorporated (Delaware).
- (24) Custom Technologies Corporation (Delaware).
- (25) Federal Stampings, Inc. (Minnesota).
- (26) Washington Manufacturing Company, Inc. (Delaware).
- (27) Escast, Inc. (Illinois).

1. Parent corporation and address of principal office: The Quaker Oats Company, Merchandise Mart Plaza, Chicago, IL 60654.

2. Wholly-owned subsidiaries which will participate in the operations:

- Brookstone Company, Inc., Vose Farm Road, Peterborough, New Hampshire 03452
- Ardmore Farms, Inc., 1915 Woodland Blvd., Deland, FL 32720
- Herrschners, Inc., 999 Plaza Drive, Schaumburg, IL 60195
- Jos. A. Bank Clothiers, Inc., 109 Market Place, Baltimore, MD 21202
- Wolf Brand Products, 416 S. Main Street, Corsicana, Texas 75110
- Quality Operations, Inc., 870 E. Higgins Road, Suite 143, Schaumburg, IL 60195
- Rockford Can Company, Quaker Road, Rockford, IL 61105
- Magic Pan, Inc., Francisco Bay Office Park, 50 Francisco Street, San Francisco, CA 94133

1. Parent corporation and address of principal office: Sunland Enterprises, Inc., P.O. Box 1687, Eunice, LA 70535.

2. Wholly-owned subsidiaries (or divisions) which will participate in the operations, and state(s) of incorporation:

(i) Sunland Construction, Inc.—LA.

(ii) I. E. Miller of Eunice, Inc.—LA.

(iii) Sunland Farms, Inc.—LA.

1. Parent corporation and address of principal office: Union Camp Corporation, 1600 Valley Road, Wayne, New Jersey 07470.

2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices:

Moore Handley, Highway 31 South, P.O.

Box 2607, Birmingham, Alabama 35202

Allied Container Corporation, 1 Allied

Drive, Dedham, Massachusetts 02026

Rocky Creek Logging Company, Inc.,

Highway 31, P.O. Box 68, Chapman,

Alabama 36015

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-15813 Filed 6-10-82; 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. OP1-95

Decided: June 3, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 145151 (Sub-7), filed May 24, 1982. Applicant: RAY BELLEW & SONS, INC., 7810 Alameda Genoa Rd., Houston, TX 77075. Representative: John W. Carlisle, P.O. Box 967, Missouri City, TX 77459, (713) 437-1768. (1) As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI); and (2) transporting, (a) *general commodities* (except used household goods, hazardous or secret materials and sensitive weapons and munitions),

between points in the U.S. (except AK and HI); (b) *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. (except AK and HI); (c) *used household goods*, for the account of the U.S. Government incident to the performance of a pack-and-crate service on behalf of the Department of Defense, between points in the U.S. (except AK and HI); and (d) *food and other edible products and by-products intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners*, between points in the U.S. (except AK and HI).

MC 145970 (Sub-8), filed May 24, 1982. Applicant: SKILLETT & SONS, INC., P.O. Box 196, Rush Center, KS 67575. Representative: William B. Barker, P.O. Box 1979, Topeka, KS 66601, (913) 234-0565. 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. (except AK and HI).

MC 162190, filed May 25, 1982. Applicant: LUCIANO MIKE CORTEZ, d.b.a. CISCO, 2885 West 128th Ave., Space #3145, Denver, CO 80234. Representative: Luciano Mike Cortez (same address as applicant), (303) 469-1511. Transporting *food and other edible products and by-products 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. (except AK and HI).

MC 162191, filed May 25, 1982. Applicant: CLARKSVILLE MEDICAL LABORATORY, 1724 Memorial Drive, Clarksville, TN 37040. Representative: Bill G. Britton, P.O. Box 3046, Clarksville, TN 37040 (615) 552-7268. 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. (except AK and HI).

Volume No. OP2-114

Decided: June 2, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 97642 (Sub-3), filed April 9, 1982. Applicant: YOUNG TRUCKING, INC., P.O. Box 9197, Corpus Christi, TX 78408. Representative: John W. Carlisle, P.O. Box 967, Missouri City, TX 77459, (713) 437-1768. (1) Transporting, for or on behalf of the United States Government,

general commodities (except used household goods, hazardous or secret materials, and sensitive weapons and munition), between points in the U.S. (2) 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. (3) As a broker of *general commodities* (except household goods) between points in the U.S. (4) Transporting *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. (5) Transporting *food and other edible products and by products 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 161513, filed April 15, 1982. Applicant: HENRY G. SUPKA, d.b.a. SAV-ON TRANSPORTATION SERVICES, 932 Elyria Drive, Los Angeles, CA 90065. Representative: Henry G. Supka (same address as applicant), 213-222-3640. As a *broker of general commodities* (except household goods), between points in the U.S.

MC 161503, filed April 14, 1982. Applicant: RANDALL D. SMITH, d.b.a. RANDALL MOVERS, 13166 Morning Spring Lane, Fairfax, VA 22033. Representative: Robert L. Smith (same address as applicant), (703) 378-8828. 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. Transporting, *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 161873, filed May 6, 1982. Applicant: V.S.V., INC., 6095-28th Street S.E., Grand Rapids, MI 49506. Representative: Thomas W. Schouten, 2745 DeHoop Ave. S.W., Wyoming, MI 49509, (616) 538-6380. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 161643, filed April 23, 1982. Applicant: KENNETH YOUTSEY, Route 1, Brookfield, MO 64628. Representative: Kenneth Youtsey (same address as applicant), (816) 256-3294. 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. (except AK and HI).

Volume No. OP3-087

Decided: June 7, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 150424 (Sub-3), filed May 26, 1982. Applicant: NESHEM-PETERSON, INC., Bethold, ND 58718. Representative: Charles E. Johnson, P.O. Box 2056, Bismarck, ND 58502. 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. (except AK and HI).

MC 162195, filed May 26, 1982. Applicant: VERNON BOYLES TRUCKING, INC., Route 1, Box 306-A, Vale, NC 28168. Representative: Lawrence E. Lindeman, 4660 Kenmore Ave., Suite 1203, Alexandria, VA 22304, (703) 751-244. Transporting (1) for or on behalf of the U.S. Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), and (2) *used household goods* for the account of the U.S. Government incident to the performance of a pack-and-crate service on behalf of the Department of Defense, between points in the U.S. (except HI).

MC 162234, filed May 27, 1982. Applicant: TRANS-ACT FREIGHT SERVICE, 901 Castaic Ave., Bakersfield, CA 93308. Representative: Gary A. Blackburn (same address as applicant), (805) 393-5450. As a *broker of general commodities* (except household goods), between points in the U.S.

Volume No. OP5-125

Decided: June 1, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 144069 (Sub-32), filed May 20, 1982. Applicant: FREIGHTWAYS, INC., P.O. Box 5204, Charlotte, NC 28225. Representative: W. T. Trowbridge (same address as applicant), 704-372-1610. Transporting, for and 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. (except AK and HI).

MC 144359 (Sub-4), filed May 20, 1982. Applicant: STANLEY G. DUNIGAN d.b.a. DUNIGAN TRUCKING

COMPANY, 1271 East Cooke Rd., Columbus, OH 43224. Representative: Earl N. Merwin, 85 East Gay St., Columbus, OH 43215, (615) 224-3161. 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. (except AK and HI).

MC 162018, filed May 17, 1982. Applicant: TERRENCE W. BAKER, 10400 Interstate Service Dr., Maple Grove, MN 55369. Representative: Terrence W. Baker (same address as applicant), 612-425-5030. 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. (except AK and HI).

MC 162068, filed May 18, 1982. Applicant: PAUL A. BOULO, INC., 118 N. Royal St., Room 711, Mobile, AL 36601. Representative: Tyler T. Boulo (same address as applicant), 205-433-5445. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 162069, filed May 18, 1982. Applicant: THOMAS H. DELIGEANNIS, 7741 Mullen Ave., Olympia, WA 98503. Representative: Thomas H. Deligeannis (same address as applicant), 206-456-6821. 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. (except AK and HI).

Volume No. OP5-127

Decided: June 2, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 161978, filed May 13, 1982. Applicant: RUDY T. CORAZZA, RUDY T. CORAZZA TRUCKING, 107 Maple St., Freeland, PA 18224. Representative: Rudy T. Corazza (same address as above), (717) 636-0627. 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 162168, filed May 24, 1982.
Applicant: BRUCE L. LYONS, 2911
Galloway, Yakima, WA 98908.
Representative: Donna Carr, Rt. 8, Box
215, Yakima, WA 98908, (509) 966-5724.
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. (except AK and HI).

MC 162169, filed May 24, 1982.
Applicant: CARRIER SYSTEMS, INC.,
2000 Market St., Philadelphia, PA 19103.
Representative: Harry J. Jordan, Suite
502, Solar Bldg., 1000 16th St., NW.,
Washington, DC 20036, (202) 783-8131.
As a *broker of general commodities*
(except household goods), between
points in the U.S. (except AK and HI).

MC 162188, filed May 25, 1982.
Applicant: THE HIGBEE COMPANY,
7319 252nd St. E, Graham, WA 98338.
Representative: Kenneth R. Mitchell,
2320A Milwaukee Way, Tacoma, WA
98421, (206) 383-3998. 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. (except AK and HI).

MC 162179, filed May 24, 1982.
Applicant: ROBERT C. CARRIER, d.b.a.
ROB CARRIER TRUCKING, Albeni
Falls #2, P.O. Box 971, Newport, WA
99156. Representative: Irene Gebe, 635
S.E. 11th, Portland, OR 97214, (503) 233-
5766. 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. (except AK and HI).

MC 162199, filed May 26, 1982.
Applicant: NEW ENGLAND
TRANSPORTATION, INC. P.O. Box
8793, New Haven, CT 06532.
Representative: Alan Kahn and Barry D.
Kleban, 1430 Land Title Bldg.,
Philadelphia, PA 19110, (215) 561-1030.
To operate as a *broker of general
commodities* (except household goods),
between points in the U.S. (except AK
and HI).

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-15615 Filed 6-10-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision

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* 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
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 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. OP1-94

Decided: June 3, 1982.

By the Commission, Review Board No. 1,
Members Parker, Chandler, and Fortier.

FF-601, filed May 25, 1982. Applicant:
JEURO CONTAINER TRANSPORT
(U.S.A.) INC., 770 Edgewood Drive, Suite
300, Oakland, CA 94621. Representative:
David R. Cabbell (same address as
applicant) (415)-430-8440. As a *freight
forwarder of general commodities*
(except classes A and B explosives),
between points in the U.S.

MC 120781 (Sub-7), filed May 24, 1982.
Applicant: KRAFTOURS
CORPORATION, P.O. Box 45790, Tulsa,
OK 74145. Representative: Maxwell A.
Howell, 1100 Investment Bldg., 1511 K
St., N.W., Washington, DC 20005 (202)
783-7900. Transporting *passengers and
their baggage*, in the same vehicle with
passengers, in charter operations,
between points in the U.S. (except HI),
under continuing contract(s) with Allan
S. Kraft, dba Kraftours, of Tulsa, OK.

MC 128521 (Sub-18), filed May 24,
1982. Applicant: BIRMINGHAM-
NASHVILLE EXPRESS, INC., P.O. Box
100417, Nashville, TN 37210.
Representative: Stephen L. Edwards 806
Nashville Bank & Trust Bldg., 315 Union
St., Nashville, TN 37201 (615) 255-9911.
Transporting *general commodities*
(except classes A and B explosives,
household goods and commodities in
bulk), between points in Lauderdale and
Colbert Counties, AL, on the one hand,
and, on the other, points in the U.S.
(except AK and HI).

Note.—Applicant intends to tack this
authority with its existing regular route
authority.

MC 144821 (Sub-18), filed May 24,
1982. Applicant: FREEDOM
FREIGHTWAYS, INC., 9060 Latty Ave.,
St. Louis, MO 63134. Representative:
Douglas C. Wynn, P.O. Box 1295,
Greenville, MS 38701 (601) 335-3576.
Transporting (1) *such commodities as
are dealt in or used by distributors of*

commercial and industrial cleaning compounds and disinfectants; and (2) chemical and related products, between St. Louis, MO, and points in St. Louis County, MO, and Los Angeles County, CA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 145860 (Sub-4), filed May 24, 1982. Applicant: JAMES MILTON HOWLETT d.b.a. HOWLETT'S TRUCKING COMPANY, 2621 Medina Drive, San Bruno, CA 94066. Representative: James Milton Howlett (same address as applicant) (405) 871-8596. Transporting machinery, water, beverages, and liquors, between points in the U.S., under continuing contract(s) with (a) Stanford Wine Co., of South San Francisco, CA, and (b) Manitou Corp., of Manitou Springs, CO.

MC 146890 (Sub-46), filed May 25, 1982. Applicant: C & E TRANSPORT, INC. d.b.a. C. E. ZUMSTEIN CO., P.O. Box 27, Lewisburg, OH 45338. Representative: E. Stephen Heisley, 1919 Pennsylvania Ave., NW, Suite 500, Washington, DC 20006 (202) 828-5015. Transporting general commodities (except classes A and B explosives and household goods), between points in DE, IL, IN, KY, MD, MI, MN, MO, NJ, NY, PA, WV and WI, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 148150 (Sub-2), filed May 26, 1982. Applicant: BROTHERS TRUCKING CO., INC., R.D. No. 2, Manchester, PA 17345. Representative: J. Bruce Walter P.O. Box 1146 Harrisburg, PA 17108 (717) 233-5731. Transporting (1) iron and steel articles; and (2) electric welders, between points in York County, PA, on the one hand, and, on the other, points in AZ, CO, CT, DE, ID, IA, KS, ME, MI, MT, NE, NV, NH, NJ, NM, NY, OR, PA, RI, SD, UT, VT and WY.

MC 152230 (Sub-5), filed May 25, 1982. Applicant: THEODORE F. MILLER, d.b.a. T & L MILLER, 36 West 8th St., Bloomsburg, PA 17815. Representative: David C. Venable, 400 Spring Valley Center, 4801 Massachusetts Ave., N.W., Washington, DC 20016 (202) 634-8933. Transporting (1) general commodities (except classes A and B explosives, household goods and commodities in bulk), between points in Northumberland County, PA, on the one hand, and, on the other, points in the U.S. (except AK and HI), (2) textile mill products and rubber and plastic products, between Baltimore, MD, St. Louis, MO, Miami, FL, and points in Adams, Columbia, and Montour Counties, PA, on the one hand, and, on the other, those points in the U.S. in and east of MN, IA, MO, AR, and LA, and (3) food and related products, between

points in Berks and Cumberland Counties, PA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 154121 (Sub-27), filed May 26, 1982 (Sub-20), filed May 20, 1982 and (Subs-21, -22, -23, -24, -25, and -26), filed May 21, 1982. Applicant: TRAILINER CORP., 2169 E. Blaine, Springfield, MO 65803. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934, (201) 435-7140. 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).

Note.—Since the authority sought in applicant's Sub 27 encompasses the authority in the additional applications reflected above, these applications will be handled on a consolidated record along with MC-154121 Sub 19 published in the Federal Register on May 27, 1982.

MC 159040 (Sub-1), filed May 24, 1982. Applicant: K.I.S.S. EXPRESS CO., 4820 West Belmont Ave., Chicago, IL 60641. Representative: E. Stephen Heisley, 1919 Pennsylvania Ave., NW., Suite 500, Washington, DC 20006, (202) 828-5015. 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), under continuing contract(s) with (1) Schnadig Corporation, of Chicago, IL; (2) Pettibone-Chicago, Inc., of Chicago, IL; (3) Genie Toys, of St. Louis, MO; (4) Lee Rowan, of St. Louis, MO; (5) St. Charles Manufacturing Company, of St. Charles, IL; (6) Adams Foam Rubber Company, Inc., of Chicago, IL; and (7) Cole Sewell Corporation, of St. Paul, MN.

MC 160441, filed May 24, 1982. Applicant: S & S CARTAGE CO., INC., 1515 So. Walnut St., P.O. Box 6424, South Bend, IN 46660. Representative: Paul D. Borghesani, 300 Communicana Bldg., 421 So. Second St., Elkhart, IN 46516, (219) 293-3597. Transporting general commodities (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S., under continuing contract(s) with (1) Clark Equipment Company, of Buchanan, MI; and (2) A M General Corporation, of South Bend, IN.

MC 161291 (Sub-1), filed May 24, 1982. Applicant: BIG SKY TRUCKING, 8280 Finch Drive, Helena, MT 59601. Representative: Randall D. Stewart (same address as applicant), (406) 458-9366. Transporting (1) chemicals and related products, between points in CA, MT and OR, (2) automotive parts and accessories, between points in MT and OR, (3) alcoholic beverages, beer and wine, between points in CA, MT, OR

and WA, and (4) lumber and wood products and building materials, between points in CA, ID, MT, ND, NV, OR, SD, UT, and WA.

MC 162140, filed May 21, 1982. Applicant: WHITE LIGHTNING TRUCKING SERVICE, INC., Route 62, Cynthiana Pike, P.O. Box 313, Georgetown, KY 40324. Representative: Fred F. Bradley, P.O. Box 773, Frankfort, KY 40602. Transporting malt beverages, (a) between those points in KY on and east of U.S. Hwy 31W, on the one hand, and, on the other, points in GA, IL, IN, MI, NC, OH, and WI, (b) between points in Wayne County, MI, on the one hand, and, on the other, points in Hamilton County, OH, and (c) between points in Wayne County, MI, and Hamilton County, OH, on the one hand, and, on the other, points in IN, KY, NC, SC and TN.

MC 162170, filed May 24, 1982. Applicant: JOHN M. BOAST, INC., 1607 West River Drive, P.O. Box 4168, Davenport, IA 52808. Representative: Joseph Winter, 29 LaSalle St., Chicago, IL 60603, (312) 263-2306. As a broker of general commodities (except household goods), between points in the U.S. (except AK and HI).

MC 162180, filed May 24, 1982. Applicant: RISCHITELLI BROTHERS, INC., Second and Water Sts., P.O. Box 189, Belle Vernon, PA 15012. Representative: Arthur J. Diskin, 402 Law and Finance Bldg., Pittsburgh, PA 15219, (412) 281-9494. Transporting commodities in bulk, between points in Westmoreland, Somerset, Indiana, Armstrong, Greene, Washington, Fayette, Beaver and Allegheny Counties, PA, on the one hand, and, on the other, points in PA, NY, NJ, MD, OH, VA, WV, and DC.

MC 162201, filed May 26, 1982. Applicant: CORO-MEX, 1023 Flora Ave., Coronado, CA 92118. Representative: Leticia Flores Avila (same address as applicant), (714) 435-3076. Transporting passengers and their baggage, in the same vehicle as passengers, beginning and ending at points in Riverside County, CA, and extending to the ports of entry on the International Boundary line between the U.S. and Mexico.

Volume No. OP2-113

Decided: June 2, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 56213 (Sub-20), filed April 12, 1982. Applicant: RICHARD L. KINARD, INC, 310 N. Zarfoss Drive, York, PA 17404. Representative: Jeremy Kahn, Suite 733, Investment Bldg., 1511 K Street, NW., Washington, D.C. 20005,

(202) 783-3525. 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 145462 (Sub-5), filed May 20, 1982. Applicant: Hollis E. LOWE, d.b.a. LOWE TRUCKING COMPANY, 6639 Abington Pike, P.O. Box 1281, Richmond, IN 47374. Representative: Russell H. Schussler, 400 1st National Bank Bldg., Richmond, IN 47374, 317-962-7527. Transporting *iron and steel articles*, between Richmond, IN, and points in IL, MI, OH, and MO, under continuing contract(s) with Dana Corporation, of Richmond, IN.

MC 155013 (Sub-2), filed April 26, 1982. Applicant: FREIGHTMASTER, INC., P.O. Box 488, Taylorsville, NC 28681. Representative: D. R. Beeler, P.O. Box 482, Franklin, TN 37064, (615) 790-2510. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S., under continuing contract(s) with Warren Oil Company, of Dunn, NC.

MC 160972, filed April 23, 1982. Applicant: AURORA TRUCKING, INC., P.O. Box 81290, Fairbanks, AK 99708. Representative: Stanley C. Olsen, Jr., 5200 Willson Road, Suite 307, Edina, MN 55424, (612) 927-9955. Transporting *general commodities* (except classes A and B explosives), between points in AK, on the one hand, and, on the other, points in the U.S., including AK (except HI).

MC 161462 (Sub-2), filed May 20, 1982. Applicant: MIDLAND EXPRESS, INC., 29 South LaSalle St., Suite 350, Chicago, IL 60603. Representative: Anthony E. Young (same address as applicant), 312-782-8880. Transporting *food and related products*, between New Orleans, LA, Charleston, SC, Gulfport, MS, Tampa, Miami, and Fort Lauderdale, FL, Mobile, AL, and Galveston, TX, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 162102, filed May 20, 1982. Applicant: INDUSTRIAL MOVERS, INC., 851 Wesley Drive, Villa Hills, KY 41017. Representative: George M. Catlett, Suite 700-702, McClure Bldg., Frankfort, KY 40601, 502-227-7384. Transporting *telephone equipment, materials, and supplies* used in the maintenance, construction, installation, and repair of telephone systems, between points in OH and KY.

Volume No. OP4-198

Decided: June 1, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 146957 (Sub-4), filed May 25, 1982. Applicant: DACIANO A. SANTOS, d.b.a. CONNECTICUT AIRPORT SERVICE, 17 Fairfield Ave., Danbury, CT. Representative: John E. Fay, 663 Maple Ave., Hartford, CT 06114. Transporting *passengers and their baggage*, between the John F. Kennedy International Airport and La Guardia Airport at New York, NY, and the Newark International Airport, at Newark, NJ, on the one hand, and, on the other, points in Bristol and Plymouth Counties, MA, and Providence County, RI.

MC 149497 (Sub-27), filed May 24, 1982. Applicant: HAUPT CONTRACT CARRIERS, INC., P.O. Box 1023, Wausau, WI 54401. Representative: Robert A. Wagman (same address as applicant), (715) 359-2907. 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), under continuing contract(s) with International Paper Company, International Paper Plaza, of New York, NY.

MC 156677 (Sub-1), filed May 24, 1982. Applicant: FIVE BORO TRUCKING CORP., 34-51 48th St., Long Island City, NY 11101. Representative: Bruce J. Robbins, 18 E. 48th St., New York, NY 10017, (212) 755-9400. Transporting *food and related products*, between New York, NY, on the one hand, and, on the other, points in CT, ME, MA, NH, RI, and VT.

MC 158347, filed May 24, 1982. Applicant: TIMMON H. MARTIN, d.b.a. T. H. MARTIN TRUCKING, 8314 Scout Ave., Bell Gardens, CA 90201. Representative: Milton W. Flack, 8484 Wilshire Blvd., #840, Beverly Hills, CA 90211, (213) 655-3573. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of insulation products, between points in the U.S. (except AK and HI), under continuing contract(s) with Childers Products Company, of Montebello, CA, and Extol, A Division of Childers Products Company, of City of Commerce, CA.

MC 128837 (Sub-51), filed May 26, 1982. Applicant: TRUCKING SERVICE, INC., P.O. Box 229, Carlinville, IL 62626. Representative: Michael W. O'Hara, 300 Reisch Bldg., Springfield, IL 62701, (217) 544-5468. Transporting *new furniture*, between points in the U.S. (except AK and HI).

Volume No. OP5-124

Decided: June 1, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 2228 (Sub-75), filed May 20, 1982. Applicant: MERCHANTS FAST MOTOR LINES, INC., East Hwy. 80, P.O. Drawer 591, Abilene, TX 79604. Representative: Jerry Prestridge, P.O. Box 1148, Austin, TX 78767, (512) 472-8800. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), serving points in CO, NM, and AZ as off-route points in connection with applicant's authorized regular-route operations.

MC 43269 (Sub-77), filed May 20, 1982. Applicant: WELLS CARGO, INC., P.O. Box 1511, Reno, NV 89505-1511. Representative: Royal F. Miller (same address as applicant), (702) 329-0061. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in NV, on the one hand, and on the other, points in CA, under continuing contract(s) with K Mart Corporation, Sparks, NV.

MC 50069 (Sub-573), filed May 21, 1982. Applicant: REFINERS TRANSPORT & TERMINAL CORPORATION, 445 Earlwood Ave., Oregon, OH 43616. Representative: J.A. Kundtz, 1100 National City Bank Bldg., Cleveland, OH 44114, 216-566-5639. Transporting *commodities in bulk* between points in the U.S., under continuing contract(s) with Reserve Petroleum Co. of Pittsburgh, PA.

MC 88368 (Sub-58), filed May 24, 1982. Applicant: CARTWRIGHT VAN LINES, INC., 11901 Cartwright Ave., Grandview, MO 64030. Representative: Thomas R. Kingsley, 10610 Amherst Ave., Silver Spring, MD 20902, 301-649-5074. Transporting (1) *machinery* and (2) *metal products*, between Omaha, NE., New York, NY, Memphis, TN, and points in Webster County, LA, AR, KS, OK, and TX, on the one hand, and, on the other, points in the U.S.

MC 97998 (Sub-5), filed May 20, 1982. Applicant: REFRIGERATED TRANSPORT INC., P.O. Box 225299, Dallas, TX 75265. Representative: Bernard H. English, 6270 Firth Road, Fort Worth, TX 76116, (817) 731-8431. Transporting *general commodities* (except household goods, classes A and B explosives, and commodities in bulk), between points in AL, AR, CO, KS, LA, MS, MO, NM, OK, TN, and TX.

MC 99869 (Sub-2), filed May 20, 1982. Applicant: COASTAL MOVING CO., INC., P.O. Box AQ, Jacksonville, NC 28540. Representative: Robert J. Gallagher, 1000 Connecticut Ave., NW., Suite 1200, Washington, DC 20036, 202-785-0024. Transporting *household goods*, between points in NC, on the one hand

and, on the other, points in MD, DE, NC, SC, VA, WV, GA, AL, FL, and DC.

MC 103798 (Sub-56), filed May 21, 1982. Applicant: MARTEN TRANSPORT, LTD., Rt. 3, Mondovi, WI 54755. Representative: Robert S. Lee, 1600 TCF Tower, 121 South 8th St., Minneapolis, MN 55402, (612) 333-1341. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in AL, AZ, AR, CA, CO, ID, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, MT, NE, NV, NM, ND, OH, OK, OR, SD, TN, TX, UT, WA, WI, and WY.

MC 120869 (Sub-4), filed May 19, 1982. Applicant: CALIFORNIA TANK LINES, INC., P.O. Box 6245, 3105 S. El Dorado St., Stockton, CA 95206. Representative: John G. Lyons, 220 Bush St., San Francisco, CA 94104, (415) 392-1423. Transporting *chemicals and related products*, between points in CA, on the one hand, and, on the other, points in AZ, CA, CO, ID, MT, NV, NM, OR, UT, WA, and WY.

MC 128449 (Sub-14), filed May 17, 1982. Applicant: JIMMIE TUCKER TRUCKING, INC., Box 428, Broken Bow, OK 74728. Representative: William P. Parker, P.O. Box 54657, Oklahoma City, OK 73154, (405) 424-3301. Transporting *chemicals*, between points in Eddy County, NM, on the one hand, and, on the other, points in AL, AR, CA, CO, FL, GA, KS, LA, MN, MS, MT, ND, OH, OK, TX, UT, VA and WY.

MC 135989 (Sub-37), filed May 21, 1982. Applicant: COAST EXPRESS, INC., 14280 Monte Vista Ave., Chino, CA 91710. Representative: William J. Lippman, P.O. Box 6060, Snowmass Village, CO 81615, 303-923-4565. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S., under continuing contract(s) with Charles McAlpin Brokerage, Inc. of Decatur, AL.

MC 144168 (Sub-7), filed May 20, 1982. Applicant: R. E. GARRISON TRUCKING, INC., P.O. Box 186, Cullman, AL 35055. Representative: Michael M. Knight (same address as applicant), 205-734-1470. Transporting *general commodities* (except A and B explosives, household goods, and commodities in bulk), between points in AL, GA, FL, TN, CA, AZ, TX, LA, MS, NC, SC, IA, IN, IL, KY, MI, OH, and WI.

MC 147038 (Sub-4), filed May 17, 1982. Applicant: C. STRANGE TRUCKING CO., INC., Rt. 2, Box 38, Wallace, MI 49893. Representative: James A. Spiegel, Olde Towne Office Park, 6333 Odana Road, Madison, WI 53719, (608) 273-

1003. Transporting *lumber and wood products*, between points in the U.S. (except AK and HI), under continuing contract(s) with Rodman Industries Inc., of Marinette, WI.

MC 147038 (Sub-5), filed May 17, 1982. Applicant: C. STRANGE TRUCKING CO., INC., Rt. 2, Box 38, Wallace, MI 49893. Representative: James A. Spiegel, Olde Towne Office Park, 6333 Odana Road, Madison, WI 53719, (608) 273-1003. Transporting *transportation equipment*, between points in the U.S. (except AK and HI), under continuing contract(s) with The Budd Company of Clinton, MI.

MC 148539 (Sub-2), filed May 20, 1982. Applicant: LINDO'S TOURS U.S.A., INC., 1886 U.S. 19th South, Clearwater, FL 33516. Representative: Richard M. Davis, Suite 320, Lewis State Bank Bldg., Tallahassee, FL 32301, 904-222-5175. Transporting *passengers and their baggage* in the same vehicle with passengers, in charter and special operations, beginning and ending at points in Dade, Broward, and Palm Beach Counties, FL, and extending to points in the U.S.

MC 148928 (Sub-1), filed May 4, 1982. Applicant: R H TRUCKING, INC., Rt 2, Nichols, SC 29581. Representative: Jon F. Hollengreen, 1020 Pennsylvania Bldg., Pennsylvania Ave. & 13th St., NW., Washington, D.C. 20004, (202) 628-4600. Transporting *fertilizer and related products*, between points in NC, SC, and GA.

MC 152649 (Sub-10), filed February 22, 1982. (previously published (republishing) in *Federal Register* on March 16, 1982). Applicant: RIVERLAND TRUCKING CO., INC., Post Office Drawer BC., Reserve, LA 70084. Representative: Harold O. Orlofske, P.O. Box 368, Neenah, WI 54956, (414) 722-2848. Transporting (1) *packaging products and packaging materials and supplies*, between points in AL, AR, FL, GA, IL, KY, LA, MI, MS, NC, SC, TN, and TX, and (2) *food and related products*, between points in St. John the Baptist Parish, LA, on the one hand, and, on the other, points in AL, AR, FL, GA, IL, IN, KY, MS, NC, NE, OH, OK, SC, TN, TX, VA, and WI.

Note.—Republishing made to show correct parish in LA. in (2) of caption summary.

MC 153979 (Sub-3), filed May 21, 1982. Applicant: WEST POINT TRANSPORT, INC., 1700 Willis Rd., Richmond, VA 23234. Representative: Paul D. Collins, 7761 Lakeforest Drive, Richmond, VA 23235, (804) 745-0446. 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), under

continuing contract(s) with Celanese Fibers Company of Charlotte, NC, Federal Paper Board Company, Inc., of Richmond, VA, A.H. Robins Company of Richmond, VA, Thompson Industries, Inc., a division of Dart & Kraft, Inc., of Phoenix, AZ, and Thalheimer Brothers, Inc., Division of Carter-Hawley-Hale, Inc., of Richmond, VA.

MC 154728 (Sub-2), filed May 20, 1982. Applicant: HARVEY G. ALLEN, d.b.a. ALLEN TRUCKING COMPANY, 11603 Kerry Lane, Mabelvale, AR 72103. Representative: Thomas B. Staley, 1550 Tower Bldg., Little Rock, AR 72201, (501) 375-8151. Transporting *forest products and lumber and wood products*, between points in Dallas and Pulaski Counties, AR, on the one hand, and, on the other, points in IL, KY, NM, AZ, CO, and MN.

MC 155118 (Sub-7), filed May 17, 1982. Applicant: T.D.S. TRANSPORTATION, INC., 1700 South Wolf Road, Des Plaines, IL 60018. Representative: Julie L. Roper (same address as applicant), (312) 298-8800. Transporting *general commodities* (except household goods, commodities in bulk, and classes A and B explosives) between points in the U.S. (except AK and HI), under continuing contract(s) with Packer Plastics, Incorporated, of Lawrence, KS, Noodles by Leonardo, Inc., of Cando, ND, The Stearns & Foster Co., of Lockland, OH, and Kieffer Paper Mills, Inc., of Brownstown, IN.

MC 160698 (Sub-1), filed May 17, 1982. Applicant: JBM ENTERPRISES, INC., 405 Hansen Ave., Bulter, PA 16001. Representative: Arthur J. Diskin, 402 Law & Finance Bldg., Pittsburgh, PA 15219, 412-281-9494. Transporting (1) *such commodities* as are dealt in or used by home-products manufacturers and distributors of cosmetics, toilet preparations and jewelry; (2) *such commodities* as are distributed by hardware stores; and (3) *new furniture*, between points in the U.S. (except AK and HI).

MC 160788, filed May 17, 1982. Applicant: J & H TRANSPORTATION, INC., Rt. 2, Leedey, OK 73654. Representative: Michael H. Lennox, 3925 N. W. 10th St., Box 75613, Oklahoma City, OK 73147, (405) 943-2722. Transporting *Mercer commodities*, between points in the U.S. (except AK and HI), under continuing contract(s) with Offshore and Inland Leasing and McGuire Industries, both of Elk City, OK.

MC 161608 (Sub-1), filed May 18, 1982. Applicant: FORTY GRAND TRANSPORTATION, INC., Hwy 90 East, Amelia, LA 70340. Representative:

Janet Boles Chambers, 8211 Goodwood Blvd., Suite C-1, Baton Rouge, LA 70806, 504-924-2686. Transporting *Mercer commodities* between those points in LA, in and south of Sabine, Vernon, Rapides, Avoyelles and Concordia Parishes, LA, on the one hand, and, on the other, points in AL, AR, CA, CO, FL, GA, MS, NM, OK, TX and WY.

MC 162029, filed May 17, 1982. Applicant: G.J.G. ENTERPRISES, INC., 109 Brookside Drive, O'Fallon, IL 62269. Representative: Robert L. Glock (same address as applicant), 618-632-7683. Transporting *food and related products*, between points in the U.S. (except AK and HI), under continuing contract(s) with Switzer Candy Co. of St. Louis, MO, and Hollywood Brands, Inc. of Centralia, IL.

MC 162039, filed May 17, 1982. Applicant: INTERSTATE STONE & BLOCK CO., INC., 3300 Crater Lake Ave., Medford, OR 97501. Representative: John A. Tucker (same address as applicant), 503-772-7173. Transporting (1) *lumber and wood products*, (2) *construction materials*, (3) *clay, concrete, glass or stone products*, between points in AZ, CA, CO, ID, NV, OR, WA, and UT.

MC 162078, filed May 18, 1982. Applicant: UTAH HIGHWAY EXPRESS, No. 35 South West, Salt Lake City, UT 84101. Representative: Rick J. Hall, P.O. Box 2465, Salt Lake City, UT 84110, 801-531-1777. Transporting *pipe, valves, fittings, and related tools*, between points in the U.S., under continuing contract(s) with Fluor Supply Company of Salt Lake City, UT.

MC 162139, filed May 21, 1982. Applicant: COMMONWEALTH TRUCKING, INC., P.O. Box 902, Yreka, CA 96097. Representative: Donald L. Smith (same address as applicant), 916-842-4435. Transporting (1) *lumber and wood products*, under continuing contract(s) with Columbia Plywood Corp. of Klamath Falls, OR; Aetna Plywood, Inc. of Chicago, IL; and American Forest Products Co. of San Francisco, CA; and (2) *metal products*, under continuing contract(s) with Inmark Metal Services, Inc. of Seattle, WA, between points in the U.S.

Volume No. OP5-126

Decided: June 2, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 8509 (Sub-2), filed May 24, 1982. Applicant: FAYETTE TRUCKING, INC., Rte. 21, P.O. Box 1006, Uniontown, PA 15401. Representative: Arthur J. Diskin, 402 Law & Finance Bldg., Pittsburgh, PA 15219, 412-281-9494. Transporting (1)

machinery, and (2) *contractors' equipment*, between points in PA, VA, MD, WV, OH, NY, KY, and NJ.

MC 96328 (Sub-9), filed May 24, 1982. Applicant: J. AND W CORPORATION, 3525 S. Leavitt St., Chicago, IL 60609. Representative: Robert J. Gill, First Commercial Bank Bldg., 410 Cortez Rd. West, Bradenton, FL 33507, 813-758-4153. Transporting *hospital and medical supplies, toilet preparations, and agricultural products*, between points in Cook County, IL, on the one hand, and, on the other, points in IL, IN, IA, MO, OH, and WI.

MC 114028 (Sub-43), filed May 24, 1982. Applicant: ROWLEY INTERSTATE TRANSPORTATION COMPANY, INC., 2010 Kerper Boulevard, Dubuque, IA 52001. Representative: Carl L. Steiner, 29 South LaSalle St., Chicago, IL 60603, (312) 236-9375. Transporting *hides* between Maquoketa, IA, and Chicago, IL, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 114028 (Sub-44), filed May 24, 1982. Applicant: ROWLEY INTERSTATE TRANSPORTATION COMPANY, INC., 2010 Kerper Boulevard, Dubuque, IA 52001. Representative: Carl L. Steiner, 29 South LaSalle St., Chicago, IL 60603, (312) 236-9375. Transporting *bananas* between Tampa, FL, on the one hand, and, on the other, points in DE, IL, IN, IA, KY, MN, NJ, VA, and WI.

MC 117119 (Sub-843), filed May 24, 1982. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, AR 72728. Representative: L. M. McLean (same address as applicant), (501) 248-7261. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S., under continuing contract(s) with Campbell Soup Company of Camden, NJ.

MC 123499 (Sub-3), filed May 17, 1982. Applicant: LOWELL L. TREFFERT, INC., 3323 Rodney Lane, Racine, WI 53406. Representative: Richard C. Alexander, 710 North Plankinton Ave., Milwaukee, WI 53203, (414) 273-7410. Transporting *food and related products*, (a) between Memphis, TN, on the one hand, and, on the other, points in Racine County, WI, and (b) between Milwaukee, WI, on the one hand, and, on the other, points in IL.

MC 139858 (Sub-51), filed May 25, 1982. Applicant: AMSTAN TRUCKING, INC., 1255 Corwin Ave., Hamilton, OH 45015. Representative: Keith G. O'Brien, 1729 H St. NW., Washington, DC 20006, (202) 337-6500. 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 141318 (Sub-22), filed May 24, 1982. Applicant: WEATHER SHIELD TRANSPORTATION, LTD., Box Ltd., 129 No. Main St., Medford, WI 54451. Representative: Robert S. Lee, 1600 TCF Tower, 121 So. 8th St., Minneapolis, MN 55402, (612) 333-1341. Transporting (1) *building materials* between points in AL, AZ, CA, CO, CT, GA, ID, IL, IN, IA, KS, KY, ME, MI, MN, MO, MT, NJ, ND, NM, OH, OR, PA, SD, TN, UT, WA, and WI, on the one hand, and, on the other, points in the U.S. (except AK and HI), and (2) *chemicals and related products* between points in CA, on the one hand, and, on the other, points in CO, ID, NV, and UT.

MC 147668 (Sub-3), filed May 24, 1982. Applicant: CANTON SALES & STORAGE COMPANY, 555 Mathews Drive, Canton, MS 39406. Representative: Harold D. Miller, Jr., 17th Floor Deposit Guaranty Plaza, Jackson, MS 39205, (601) 948-5711. Transporting *general commodities* (except classes A and B explosives, commodities in bulk, and household goods), (a) between points in NY, MA, RI, CT, PA, NJ, DE, MD, VA, NC, SC, and GA, on the one hand, and, on the other, points in MS, LA, and TX, under continuing contract(s) with TG&Y Stores Co., of Oklahoma City, OK, (b) between points in NJ, on the one hand, and, on the other, points in Shelby County, TN, and Marion County, AL, under continuing contract(s) with Vassarette, Div. of Munsingwear, Inc., of Minneapolis, MN, and (c) between Milwaukee, WI, Boston, MA, Jersey City, NJ, Charlotte, NC, and Atlanta, GA, on the one hand, and, on the other, Memphis, TN, and points in Haywood County, TN, Webster, Neshoba, and Wayne Counties, MS, Desha County, AR, and West Carroll Parish, LA, under continuing contract(s) with Wells-Lamont Corporation, of Chicago, IL.

MC 146449 (Sub-5), filed May 24, 1982. Applicant: ALL CITIES TRANSFER, INC., 1567 East Hamilton Ave., East Point, GA 30344. Representative: Ben M. Cotton (same address as applicant), (404) 768-7780. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S., under continuing contract(s) with International Freight Brokers, Inc., of Charlotte, NC.

MC 150368 (Sub-2), filed May 24, 1982. Applicant: BURKLUND TRANSPORTATION, INC., Route 1, Vulcan, MI 49892. Representative: Nancy J. Johnson, 103 East Washington

St., Box 218, Crandon, WI 54520, (715) 478-3341. Transporting *paper and paper products*, between Milwaukee, WI, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 155438 (Sub-1), filed May 11, 1982. Applicant: PAUL D. CHURCH & IRENE A. CHURCH, d.b.a. CHURCH TRUCKING, INC., 3126 S.E. Washington St., Milwaukie, OR 97222.

Representative: Paul D. Church (same address as applicant), (503) 654-1821. Transporting *lift trucks, machinery, and machinery parts*, between Portland and Eugene, OR, and points in Jackson County, OR, on the one hand, and, on the other, San Francisco, Sacramento, and Fresno, CA, and points in Los Angeles, Santa Clara, Stanislaus, Humboldt, Sonoma, Monterey, Siskiyou, Kern, Modoc, Lassen, and Shasta Counties, CA.

MC 157199 (Sub-2), filed May 17, 1982. Applicant: SRT TOURS, INC., 119 Graham Lane, Lodi, NJ 07644. Representative: Larsh B. Mewhinney, 555 Madison Ave., New York, NY 10022, 212-838-0600. To engage in operations as a *broker*, at Jacksonville, FL, in arranging for the transportation of *passengers and their baggage*, between points in the U.S.

MC 161479 (Sub-2), filed May 25, 1982. Applicant: B & P TRANSPORTATION COMPANY, INC., 4086 Viscount, Memphis, TN 38118. Representative: Tommie J. Perkins, Sr., P.O. Box 18307, Memphis, TN 38118, (901) 362-2868. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in AL, AR, GA, IL, KY, LA, MS, MO, and TN.

MC 162049, filed May 18, 1982. Applicant: JAG TRANSPORT & LEASING CO., INC., 2956 Paula Circle, Oxnard, CA 93030. Representative: Edwin C. Johnson (same address as applicant), 805-483-8169. Transporting (1) *food and related product*, (2) *plastic and plastic products*, (3) *ordnance and related accessories*, between points in Ventura County, CA, on the one hand, and, on the other, points in AZ, CA, CO, ID, NV, OR, UT, and WA, and (4) *metal products*, between points in AZ, CA, CO, ID, NV, OR, UT, and WA. Condition: Any certificate issued in this proceeding to the extent it authorizes transportation of classes A and B explosives shall be limited in points of time to a period expiring five years from the date of issuance of the certificate.

MC 162059, filed May 18, 1982. Applicant: ROLF DRESCHER, d.b.a. ELMCREST HORSE TRANSPORT, 701 Henry Ave., Winnipeg, Manitoba, Canada R3E 1T9. Representative: Gene

P. Johnson, P.O. Box 2471, Fargo, ND 58101, 701-237-4223. Transporting in foreign commerce only, *horses other than ordinary*, between points in the U.S. (except AK and HI).

MC 162148, filed May 24, 1982. Applicant: YOUR MAN TOURS, INC., 8831 Aviation Blvd., Inglewood, CA 90301. Representative: Joseph J. Weisenfeld, Suite 1850, One Biscayne Tower, Miami, FL 33131, (305) 374-5800. Transporting *passengers and their baggage* in same vehicle with passengers, in charter and special operations, beginning and ending at points in OH, PA, MI, MO, MN, and WI, and extending to points in FL.

MC 162158, filed May 21, 1982. Applicant: DAUGHERTY'S TRAVEL AGENCY, Dividing Creek Road, Rt #1, Box 219A, Pocomoke City, MD 21851. Representative: Irene Daugherty (same address as applicant), (301) 957-3020. To operate as a *broker* at Pocomoke City, MD, in arranging for the transportation of *passengers and their baggage*, in special and charter operations, beginning and ending at points in MD, DE, and VA, and extending to points in the U.S.

MC 162198, filed May 26, 1982. Applicant: TRAVEL MATES OF VIRGINIA, INCORPORATED, 869 North Liberty Street, P.O. Box 2, Harrisonburg, VA 22801. Representative: Gaye M. Stover (same address as applicant), (703) 434-4155. Transporting *passengers and their baggage* in same vehicle with passengers, in special and charter operations, between Harrisonburg, VA, and points in Rockingham County, VA, on the one hand, and, on the other, points in the U.S.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-15814 Filed 6-10-82; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 29936]

Rail Carriers; Canadian Pacific Limited and Newport and Richford Railroad Co.—Extension and Amendment of Lease With the Montreal and Atlantic Railway Co.—Exemption

June 3, 1982.

Petitioner Canadian Pacific Limited (CPL), a Canadian corporation, operates a railway system of approximately 16,300 miles in Canada. Petitioner Newport and Richford Railroad Company (N&R), a Vermont corporation, is a Class III rail carrier, and petitioner the Montreal and Atlantic Railway Company (M&A), a Canadian corporation, is a Class I rail carrier. CPL

owns 100 percent of the voting stock of N&R and 97 percent of M&A.

N&R owns approximately 90 miles of railroad in Vermont, which is operated by CPL under lease arrangements. N&R has no employees and owns no rolling stock or properties other than the line of railroad. M&A owns approximately 218 miles of railroad, about 131.5 miles of which are in Canada and the rest are in Vermont. These are operated by CPL under various leases. M&A also has no employees or rolling stock, other than the line of railroad.

On June 8, 1881 N&R leased to M&A (then known as The South Eastern Railway Company) its railway situated in Orleans and Franklin Counties in Vermont. The lease ran for 99 years and provided, among other things, for a rental of \$1,500 per month. By lease dated September 15, 1931, M&A leased to CPL for 999 years (commencing October 1, 1931) all of its railways whether then in existence or to be constructed, including all of its rights as lessee of N&R under the 1881 lease.

Petitioners state that if the 1881 lease were to expire, the rights of CPL to operate that portion of the railway lines of N&R described in the 1881 lease, which CPL holds through the 1931 lease from M&A, would also expire. For administrative convenience CPL determined (1) that the 1881 lease should be extended for a term of 950 years from June 8, 1980 to September 30, 2930 (to have it coincide with the term of the 1931 lease) and (2) to amend the rental provisions of the 1881 lease to eliminate obsolete rental provisions, to provide for an annual rental equal to the net expenses to Lessor, and to pay the interest due on bonds or other outstanding obligations of N&R.

To implement the extension and amendment of the 1881 lease, a new agreement was drawn and approved by the directors and shareholders of M&A and N&R.

By petition filed May 13, 1982, petitioners seek exemption under 49 U.S.C. 10505 of the proposed extension of the 1881 lease and its amendment.

This is a transaction wholly within a corporate family which is exempt as a class because it does not result in adverse changes in service levels, significant operational changes, or a change in the competitive balance with carriers outside the corporate family. 49 CFR 1111.2(d)(3).

As a condition to the use of this exemption, any rail employees affected by this transaction shall be protected pursuant to *Mendocino Coast Ry., Inc.—Lease and Operate*, 354 I.C.C. 732 (1978) and 360 I.C.C. 653 (1980). This will

satisfy the statutory requirements of 49 U.S.C. § 10505(g)(2).

By the Commission, Heber P. Hardy,
Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-15811 Filed 6-10-82; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 387 (Sub-146)]

Rail Carriers; Chesapeake and Ohio Railway Co. Exemption for Contract Tariff ICC-CO-C-0015

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Provisional Exemption.

SUMMARY: Petitioners are granted a provisional exemption under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e). The contract tariff to be filed may become effective on one day's notice. This exemption may be revoked if protests are filed within 15 days of publication in the Federal Register.

FOR FURTHER INFORMATION CONTACT: Tom Smerdon, (202) 275-7277.

SUPPLEMENTARY INFORMATION: The Chesapeake and Ohio Railway Company and the Grand Trunk Western Railway Company filed a petition on May 25, 1982, seeking an exemption under 49 U.S.C. 10505 from the statutory notice provisions of 49 U.S.C. 10713(e). They request that we permit its contract ICC-CO-C-0015 filed on May 12, 1982 to become effective on one day's notice. The contract involves the movement of industrial sand.

Under 49 U.S.C. 10713(e), contracts must be filed on not less than 30 days' notice. There is no provision for waiving this requirement. However, the Commission has granted relief under our section 10505 exemption authority in exceptional situations.

The petition shall be granted. The carriers have a sizeable surplus of covered hoppers suitable for transporting industrial sand. Permitting short notice will enable the carrier to use equipment which would otherwise be idle. We find this to be the type of exceptional circumstance which warrants a provisional exemption.

Petitioners contract ICC-CO-C-0015 may become effective on one day's notice. We will apply the following conditions which have been imposed in similar exemption proceedings.

If the Commission permits the contract to become effective on one day's notice, this fact neither shall be construed to mean that this is a Commission approved contract for purposes of 49 U.S.C. 10713(g) nor shall it

serve to deprive the Commission of jurisdiction to institute a proceeding on its own initiative or on complaint, to review this contract and to disapprove it.

Subject to compliance with these conditions, under 49 U.S.C. 10505(a) we find that the 30-day notice requirement in this instance is not necessary to carry out the transportation policy of 49 U.S.C. 10101(a) and is not needed to protect shippers from abuse of market power. Further, we will consider revoking this exemption under 49 U.S.C. 10505(d) if protests are filed within 15 days of publication in the Federal Register.

This action will not significantly affect either the quality of the human environment or conservation of energy resources.

(49 U.S.C. 10505)

Dated: June 4, 1982.

By the Commission, Division 2,
Commissioners Gresham, Taylor, and Simmons. Commissioner Taylor is assigned to this Division for the purpose of resolving tie votes. Since there was no tie in this matter, Commissioner Taylor did not participate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-15808 Filed 6-10-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-43 (Sub-83)A]

Rail Carriers; Illinois Central Gulf Railroad—Abandonment—Between Milepost 0.26 and Milespost 7.62 in Ohio County, KY; Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that the Commission, Review Board Number has found that the public convenience and necessity permit Illinois Central Gulf Railroad Company to abandon the segment of its rail line between milepost 0.26 and milepost 7.62 in Ohio County, KY a total distance of 7.36 miles, subject to conditions. A certificate will be issued authorizing this abandonment unless within 15 days after this publication the Commission also finds that:

(1) A financially responsible person (or government entity) has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and

(2) It is likely that:

(a) If a subsidy, the assistance would cover the difference between the revenues attributable to the line and the avoidable cost of providing rail freight service on the line, together with a reasonable return on the value of the line, or

(b) If a purchase, the assistance would cover the acquisition cost of all or any portion of the line.

Any financial assistance offer must be filed with the Commission and served concurrently on the applicant, with copies to Louis E. Gitomer, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than 10 days from publication of this notice.

If the Commission makes the findings described above, the issuance of the abandonment certificate will be postponed. An offeror may request the Commission to set conditions and amount of compensation within 30 days after an offer is made. If no agreement is reached within 30 days of an offer, and no request is made for the Commission to set conditions or amount of compensation, the abandonment certificate will become effective.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 (as amended by the Staggers Rail Act of 1980, Pub. L. 96-448) and 49 CFR 1121.38.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-15812 Filed 6-10-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-55 (Sub-58)B]

Rail Carriers; Seaboard Coast Line Railroad Co.—Abandonment—Between Milepost AVC 830.11 and Milepost AVC 832.0 in Haines City, FL; Findings

The Commission has found that the public convenience and necessity permit Seaboard Coast Line Railroad Company to abandon its 1.89 mile line of railroad between Haines City (milepost AVC 830.11) and Prine (milepost AVC 832.0) in Polk County, FL. A certificate will be issued authorizing this abandonment unless within 15 days after this publication 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 Mr. Louis E. Gitomer, 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 procedures 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. 82-15810 Filed 6-10-82; 8:45 am]
BILLING CODE 7035-01-M

[Ex Parte No. 387 (Sub-148)]

Rail Carriers; Southern Pacific Transportation Co. Exemption for Contract Tariff ICC-SP-C-0089

AGENCY: Interstate Commerce Commission.

ACTION: Notice of provisional exemption

SUMMARY: Petitioner is granted a provisional exemption under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e). The contract tariff to be filed may become effective on one day's notice. This exemption may be revoked if protests are filed within 15 days of publication in the *Federal Register*.

FOR FURTHER INFORMATION CONTACT: Tom Smerdon, (202) 275-7277.

SUPPLEMENTARY INFORMATION: The Southern Pacific Transportation Company (SP) filed a petition on May 25, 1982, seeking an exemption under 49 U.S.C. 10505 from the statutory notice provisions of 49 U.S.C. 10713(e). It requests that we permit its contract ICC-SP-C-0089 filed on May 25, 1982 to become effective on one day's notice. The contract is with a cooperative association of shippers in the Northwest.

Under 49 U.S.C. 10713(e), contracts must be filed on not less than 30 days' notice. There is no provision for waiving this requirement. However, the Commission has granted relief under our section 10505 exemption authority in exceptional situations.

The petition shall be granted. The applicable published tariff on the shipper association's commodities currently requires that ten boxcars be released in any 24 hour period. However, due to current economic conditions, the shipper association is unable to make its ten car releases without holding up the traffic beyond a period of time acceptable to its members. As a result, the shipper cooperative has lost four of its members to truck competition and may lose more unless the contract is approved. The contract provides for an annual commitment but does not require that ten cars be released at a time, thus eliminating the service disadvantage caused by the published tariff. We find this to be the type of exceptional circumstance which warrants a provisional exemption.

Petitioner's contract ICC-SP-C-0089 may become effective on one day's notice. We will apply the following conditions which have been imposed in similar exemption proceedings:

If the Commission permits the contract to become effective on one day's notice, this fact neither shall be construed to mean that this is a Commission approved contract for purposes of 49 U.S.C. 10713(g) nor shall it serve to deprive the Commission of jurisdiction to institute a proceeding on its own initiative or on complaint, to review this contract and to disapprove it.

Subject to compliance with these conditions, under 49 U.S.C. 10505(a) we find that the 30-day notice requirement in this instance is not necessary to carry out the transportation policy of 49 U.S.C. 10101(a) and is no need to protect shippers from abuse of market power. Further, we will consider revoking this exemption under 49 U.S.C. 10505(d) if protests are filed within 15 days of publication in the *Federal Register*.

This action will not significantly affect neither the quality of the human environment or conservation of energy resources.

(49 U.S.C. 10505)

Dated: June 4, 1982.

By the Commission, Division 2, Commissioners Gresham, Taylor, and Simmons. Commissioner Taylor is assigned to this Division for the purpose of resolving tie votes. Since there was no tie in this matter, Commissioner Taylor did not participate.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-15807 Filed 6-10-82; 8:45 am]
BILLING CODE 7035-01-M

INTERNATIONAL COMMUNICATION AGENCY

Book and Library Advisory Committee

The Book and Library Advisory Committee will hold its first meeting on Thursday, June 24, 1982, from 9:30 a.m. to 1:00 p.m. in Room 600, 1750 Pennsylvania Avenue NW., Washington, D.C. 20547. The committee will be briefed on Agency activities in general and on the book and library programs at posts overseas. For further information, contact Mr. Robert R. Reilly, Director of the Office of Private Sector Programs, (202) 632-6716.

Mary Jane Winnett,
Management Assistant, Office of Management Plans, Analysis, and Directives, Associate Directorate for Management.

[FR Doc. 82-15830 Filed 6-10-82; 8:45 am]
BILLING CODE 8230-01-M

DEPARTMENT OF JUSTICE

Consent Decree To Require Compliance With the Clean Air Act

In accordance with Departmental policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that a proposed consent decree to enforce the terms of the New York State Implementation Plan in *United States v. Non-Ferrous Processing Corp.*, was lodged with the United States District Court for the Eastern District of New York on May 18, 1982. The decree imposes on defendant certain requirements and compliance dates with respect to the operation of its secondary smelting plant in Brooklyn, New York.

The Department of Justice will receive for a period of thirty (30) days from the date of this notice, written comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530 and should refer to *United States v. Non-Ferrous Processing Corp.*, D.J. Ref. 90-5-2-1-406.

The proposed order may be examined at the office of the United States Attorney, Eastern District of New York, Federal Building, 225 Cadman Plaza East, Brooklyn, New York 11201, and the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice Room 1515, Ninth Street and Pennsylvania Avenue, NW., Washington, D.C. 20530. A copy of the proposed decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please enclose a check in the amount of \$1.50 (10 cents per page reproduction charge) payable to the Treasurer of the United States.

Carol E. Dinkins,
Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 82-15858 Filed 6-10-82; 8:45 am]
BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

Advisory Committee on Construction Safety and Health; Meeting

Notice is hereby given that the Advisory Committee on Construction Safety and Health, established under section 107 (e)(1) of the Contract Work Hours and Safety Standards Act (40

U.S.C. 333) and section 7(b) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 656) will meet on June 29-30, 1982 in Room N-5437, Frances Perkins Department of Labor Building, Washington, D.C. 20210. The meeting is open to the public and will begin at 9:00 a.m.

The agenda for this meeting will include a discussion of OSHA program directives that are related to the construction industry, a subgroup review of a draft proposal for the revision of Subpart L—Ladders and Scaffolding, a subgroup review of a draft proposal for the revision of Subpart M—Floor and Wall Openings and Stairways, and a general discussion of construction safety and health matters.

Written data, views or comments may be submitted, preferably with 20 copies, to the Division of Consumer Affairs. Any such submission received prior to the meeting will be provided to the members of the Committee and will be included in the record of the meeting.

Anyone wishing to make an oral presentation should notify the Division of Consumer Affairs before the meeting. The request should state the amount of time desired, the capacity in which the person will appear, and a brief outline of the content of the presentation.

Oral presentations will be scheduled at the discretion of the Chairman depending on the extent to which time permits. Communications may be mailed to: Ken Hunt, Committee Management Officer, Office of Information and Consumer Affairs, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N-3635, Washington, D.C. 20210, Telephone: 202-523-8024.

Materials provided to members of the Committee are available for inspection and copying at the above address.

Signed at Washington, D.C., the 4th day of June 1982.

Thorne G. Auchter,
Assistance Secretary.

[FR Doc. 82-15867 Filed 6-10-82; 8:45 am]

BILLING CODE 4510-26-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Humanities Panel: Meeting

AGENCY: National Endowment for the Humanities.

ACTION: Notice of Meeting.

SUMMARY: Pursuant to the provision of the Federal Advisory Committee Act (Pub. L. 92-463, as amended), notice is hereby given that the following meeting

of the Humanities Panel will be held at 806 15th Street, NW., Washington, D.C. 20506.

DATE: June 21, 1982.

TIME: 8:30 to 5:30 p.m.

ROOM: 1134.

PROGRAM: This meeting will review applications submitted for Consultant Grants, Division of Education, for projects beginning after October 1982. Because this is the first meeting of a panel to review Consultant Grant applications, the panel could not be scheduled until after the applications were received, but because of new, earlier deadlines for submission of panel results, it was not possible to provide the required 15 day notice period.

The proposed meeting is for the purpose of panel review, discussion, evaluation and recommendation of 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. Because the proposed meeting will consider information that is likely to disclose: (1) Trade secrets and commercial or financial information obtained from a person and privileged or confidential; (2) information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; and (3) information the disclosure of which could significantly frustrate implementation of proposed agency action; pursuant to authority granted me by the Chairman's Delegation of Authority To Close Advisory Committee Meetings, dated January 15, 1978, I have determined that this meeting 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 about this meeting can be obtained from Mr. Stephen J. McCleary, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, D.C. 20506, or call (202) 724-0367.

Stephen J. McCleary,
Advisory Committee Management Officer.

[FR Doc. 82-15832 Filed 6-10-82; 8:45 am]

BILLING CODE 7536-01-M

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Engineering; Open Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463,

the National Science Foundation announces the following meeting:

Name: Advisory Committee for Engineering
Date and time: June 30-July 1, 1982; 9 a.m.-5 p.m., June 30; 9 a.m.-3 p.m., July 1
Place: National Science Foundation, 1800 G Street, NW., Room 540, Washington, D.C. 20550

Type of meeting: Open

Contact person: Mrs. Mary Poats, Executive Secretary, Advisory Committee for Engineering, Room 537, National Science Foundation, Washington, D.C. 20550, Telephone: (202) 357-9571

Summary minutes: Contact Mrs. Mary Poats at the above address

Purpose of advisory meeting: To provide advice, recommendations, and counsel on major goals and policies pertaining to Engineering programs and activities.

Agenda

June 30

- 9:00 a.m.—Welcome and Introductory Remarks
- 9:30 a.m.—Minorities and Women in Engineering
- 10:45 a.m.—Report on National Science Board Precollege Commission on Mathematics, Science, and Technology
- Noon—Lunch
- 1:30 p.m.—Directorate for Engineering—The Present
- 3:15 p.m.—Directorate for Engineering—The Future—I
- 5:00 p.m.—Adjournment

July 1

- 9:00 a.m.—Directorate for Engineering—The Future—II
- 10:30 a.m.—Contribution of the Advisory Committee to Future of the Directorate
- Noon—Lunch
- 1:30 p.m.—Future Committee Activities
- 2:45 p.m.—Closing Remarks
- 3:00 p.m.—Adjournment

M. Rebecca Winkler,
Committee Management Coordinator.

June 8, 1982.

[FR Doc. 82-15821 Filed 6-10-82; 8:45 am]

BILLING CODE 7565-01-M

NUCLEAR REGULATORY COMMISSION

Applications for Licenses To Export Nuclear Facilities or Materials

Pursuant to 10 CFR 110.70(b) "Public notice of receipt of an application", please take notice that the Nuclear Regulatory Commission has received the following applications for export licenses. A copy of each application is on file in the Nuclear Regulatory Commission's Public Document Room located at 1717 H Street, NW., Washington, D.C.

A request for a hearing or a petition for leave to intervene may be filed on or before July 12, 1982. Any request for

hearing or petition for leave to intervene shall be served by the requestor or petitioner upon the applicant, the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, the Secretary, U.S. Nuclear Regulatory Commission and the Executive Secretary, Department of State, Washington, D.C. 20520.

In its review of applications for license to export production or utilization facilities, special nuclear material or source material, noticed herein, the Commission does not evaluate the health, safety or environmental effects in the recipient nation of the facility or material to be

exported. The table below lists all new major applications.

Dated this 7th day of June at Bethesda, Md.
For the Nuclear Regulatory Commission.

James V. Zimmerman,
Assistant Director, Export/Import and
International Safeguards, Office of
International Programs.

Name of applicant, date of application, date received, application number	Material type	Material in kilograms		End-use	Country of destination
		Total element	Total isotope		
Transnuclear, May 24, 1982, May 26, 1982, XSNM01959	4.3 pct enriched uranium.....	9,922.000	426.643	Reload fuel for S.E.N.A.....	France.
Mitsui and Co., May 24, 1982, May 27, 1982, XSNM01961.	4.0 pct enriched uranium.....	17,833	473	Reload fuel for Fukushima I, Unit No. 1.	Japan.
Byron Jackson Pump Division, May 25, 1982, May 28, 1982, XR141.	(?)	(?)	People's Republic of China.

¹Two Primary Coolant Reactor Pumps—300mw PWR, Total Value—\$5,000,000.

[FR Doc. 82-15864 Filed 6-10-82; 8:45 am]
BILLING CODE 7590-01-M

Regional State Liaison Officers' Meeting

On June 24 and 25, 1982, the Nuclear Regulatory Commission (NRC) will sponsor a regional meeting with the Governor-appointed State Liaison Officers from Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island & Vermont. The subjects which will be discussed include emergency planning, waste management, spent fuel shipments and notification, regionalization as well as other items of mutual regulatory interest.

The meeting will be conducted at the NRC Region I Office, 631 Park Avenue, King of Prussia, Pennsylvania. The meeting is open to the public for attendance and observation and will take place from 9:00 a.m. until 5:15 p.m., on Thursday, June 24, and from 8:30 a.m. until 12:15 p.m. on Friday, June 25, 1982.

Questions regarding this meeting should be directed to Sue Weissberg at (301) 492-9877.

Dated at King of Prussia, Pa., this 7th day of June 1982.

For the Nuclear Regulatory Commission,
James M. Allan,
Deputy Regional Administrator, Region I.

[FR Doc. 82-15865 Filed 6-10-82; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 30-19102 (50-259, -260, and -296)]

Tennessee Valley Authority; Availability of Safety Evaluation Report Related to the Low-Level Radioactive Waste Storage Facility at Tennessee Valley Authority Browns Ferry Nuclear Plant

The Office of Nuclear Material Safety and Safeguards, Division of Fuel Cycle and Material Safety has issued its Safety Evaluation Report on the proposed issuance of Materials License No. 01-21075-01. Application for storage of low-level radioactive waste at the Browns Ferry Nuclear Plant near Athens, Alabama was made by the Tennessee Valley Authority as amendments to the Facility Operating Licenses Nos. DPR-33, DPR-52 and DPR-68. Notice of receipt of TVA's application and offering an opportunity for the public participation in connection with this action was published in the *Federal Register* on December 11, 1980 (45 FR 81697). For administrative purposes the application has been reviewed under 10 CFR Part 30.

The report is available for public inspection and copying at the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C. 20555 and at the Local Public Document Room established at the Athens Public Library, South and Forrest Streets, Athens, Alabama 35611, under the Browns Ferry Nuclear Plant Dockets Nos. 50-259, -260 and -296.

Dated at Silver Spring, Md, this 4th day of June 1982.

For the Nuclear Regulatory Commission.

Leland C. Rouse,
Chief, Advanced Fuel and Spent Fuel
Licensing Branch, Division of Fuel Cycle and
Material Safety.

[FR Doc. 82-15862 Filed 6-10-82; 8:45 am]
BILLING CODE 7590-01-M

[Docket Nos. 50-280, 50-281, 50-338, and 50-339]

Virginia Electric & Power Co.; Granting of Relief From ASME Code Section XI Inservice Inspection Requirements

The Nuclear Regulatory Commission (the Commission) has granted relief from certain requirements of the ASME Code, Section XI, "Rules for Inservice Inspection of Nuclear Power Plant Components," to Virginia Electric and Power Company (the licensee), which revised the inservice inspection program for the Surry Power Station, Unit Nos. 1 and 2 and for the North Anna Power Station, Unit Nos. 1 and 2 located in Surry County and Louisa County, Virginia, respectively. The ASME Code requirements are incorporated by reference into the Commission's rules and regulations in 10 CFR Part 50. The relief is effective as of its date of issuance, and expires August 20, 1982.

The action provides relief from the 1974 ASME Code Section XI requirements for inservice inspection hydrostatic tests and that the requirements in the source articles of the 1977 edition of ASME Section XI with approved addenda through summer of 1979 be applied instead.

The request for this granting of relief 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 Evaluation of Relief request.

The Commission has determined that the granting of this relief 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 this action.

For further details with respect to this action, see (1) the request for relief dated December 29, 1981; (2) the letter to the licensee dated June 7, 1982; and (3) the Commission's related Evaluation of Relief Request. These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555, at the Swem Library, College of William and Mary, Williamsburg, Virginia 23185, and at the Board of Supervisors Office, Louisiana County Courthouse, Louisa, Virginia and at the Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Virginia. 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, Md., this 7th day of June 1982.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactor Branch No. 1,
Division of Licensing.

[FR Doc. 82-15862 Filed 6-10-82; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

White House Science Council Panel on the National Airspace System Plan; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given of the following:

Name: White House Science Council Panel on the National Airspace System Plan.

Date and time: June 23, 1982, 9:00 a.m.

Place: Room 9104, New Executive Office Building, 17th and Pennsylvania Avenue, NW., Washington, D.C. 20500.

Type of meeting: Part open 9:00 a.m. to 11:30 a.m. Part closed 1:00 p.m. to 5:00 p.m.

Purpose of panel: To review the Federal Aviation Administration's National Airspace System Plan (NASP) and comment on technological applications embraced by the plan, including cost

benefits, and to evaluate operational impacts on the aviation community. Comments and recommendations will be provided to the President's Science Advisor by August 1, 1982.

Agenda: Discussions with FAA on computer acquisition processes and other major programs embraced by the NASP.

Reason for closed meeting: Discussion of Plan impact/implications in regards to national security.

Authority to close meeting: These matters are within the exemptions of 5 U.S.C. 552b(c)(1), in that they deal with classified defense information. Closing is pursuant to a determination by the Director of the Office of Science and Technology Policy.

Public participation: The meeting is open to the public during the hours indicated above. Written statements may be filed with the Executive Secretary at the address listed below either before or after the meeting.

Contact: James R. Banks, Executive Secretary, White House Science Council Panel on the National Airspace System Plan, Office of Science and Technology Policy, Room 5013, New Executive Building, 17th and Pennsylvania Avenue, NW., Washington, D.C. 20500, Telephone (202) 395-3157.

Robert D. Linder,

Executive Director, Office of Science and Technology Policy.

June 8, 1982.

[FR Doc. 82-15895 Filed 6-9-82; 11:23 am]

BILLING CODE 3170-01-M

POSTAL SERVICE

Change in Mail Classification Schedule; Express Mail Next Day Service Acceptance Times

On November 10, 1981, the United States Postal Service requested the Postal Rate Commission to submit to the Governors of the Postal Service a recommended decision on a change in the Domestic Mail Classification Schedule so that Express Mail Next Day Service shipments can be accepted at the time or times prescribed by the Postal Service, pursuant to Chapter 36, Title 39, United States Code. An explanation of the Postal Service proposal and an invitation to participate in Commission Docket No. MC82-1 was published in the Federal Register by the Postal Rate Commission on November 23, 1981 (46 FR 57403). The Postal Service, under the authority of 39 U.S.C. § 3641(e), put its proposal into effect on a temporary basis on March 14, 1982 and published notice of this action in the Federal Register of March 4, 1982 (47 FR 9311).

On June 4, 1982, The Postal Rate Commission issued an Opinion and Recommended Decision in Docket No. MC82-1. The Commission recommended

that the Governors adopt the change in the Domestic Mail Classification Schedule proposed by the Postal Service and put into effect on a temporary basis. On June 8, 1982, the Governors, pursuant to 39 U.S.C. 3625, approved the Commission's recommended decision and ordered the recommended change in the Domestic Mail Classification Schedule on a permanent basis. The Board of Governors concurrently determined that this change would become effective at 12:01 p.m. on June 8, 1982. (The Governors' Decision, the record of the Commission's hearings, and the Commission's Recommended Decision may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The Governors' Decision and the Commission's Opinion and Recommended Decision are available for inspection in the Library at Headquarters, United States Postal Service, 475 L'Enfant Plaza West, SW., Washington, D.C. 20260-1641.)

In accordance with these actions by the Governors and the Board of Governors, the Postal Service hereby gives notice that the following change to the Domestic Mail Classification Schedule becomes effective at 12:01 p.m., June 8, 1982 (39 U.S.C. 3625).

W. Allen Sanders,

Associate General Counsel, Office of General Law and Administration.

Classification Schedule, 500, Express Mail is amended to read as follows:

500.022 REGULAR
Regular service is available at designated retail postal facilities for overnight service to designated destination facilities or locations for items tendered by the time or times prescribed by the Postal Service.

[FR Doc. 82-15836 Filed 6-10-82; 8:45 am]

BILLING CODE 7710-12-M

SECURITIES AND EXCHANGE COMMISSION

Philadelphia Stock Exchange, Inc.; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

June 7, 1982.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following stocks:

Heritage Communications, Inc.,
Common Stock, \$.50 Par Value (File
No. 7-6229)
Lear Petroleum Corp., Common Stock,
\$.10 Par Value (File No. 7-6230)
Mattel Inc., Warrants, \$4 Par Value (File
No. 7-6231)

These securities are listed and registered on one or more other national securities exchanges and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before June 28, 1982 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 82-15881 Filed 6-10-82; 8:45 am]
BILLING CODE 8010-01-M

TREASURY DEPARTMENT

Customs Service

[T.D. 82-113]

Tuna Fish—Tariff-Rate Quota; Tariff-Rate Quota for the Calendar Year 1982, on Tuna Classifiable Under Item 112.30, Tariff Schedules of the United States, (TSUS)

AGENCY: Customs Service, Treasury Department.

ACTION: Announcement of the quota quantity for tuna for calendar year 1982.

SUMMARY: Each year the tariff-rate quota for tuna fish described in item 112.30, (TSUS), is based on the U.S. pack

of canned tuna during the preceding calendar year.

EFFECTIVE DATES: The 1982 tariff-rate quota is applicable to tuna fish entered, or withdrawn from warehouse, for consumption during the period January 1 through December 31, 1982.

FOR FURTHER INFORMATION CONTACT: William D. Slyne, Chief, Special Operations Branch, Duty Assessment Division, Office of Commercial Operations, U.S. Customs Service, Washington, D.C. 20229 (202-566-2957).

It has now been determined that 109,742,200 pounds of tuna may be entered for consumption or withdrawn from warehouse for consumption during the calendar year 1982, at the rate of 6 per centum ad valorem under item 112.30, TSUS. Any such tuna which is entered, or withdrawn from warehouse, for consumption during the current calendar year in excess of this quota will be dutiable at the rate of 12.5 per centum ad valorem under item 112.34 of the tariff schedules.

Dated: June 2, 1982.

Alfred R. De Angelus,
Acting Commissioner of Customs.

[FR Doc. 82-15857 Filed 6-10-82; 8:45 am]
BILLING CODE 4820-02-M

Office of the Secretary

National Productivity Advisory Committee; Meeting

June 4, 1982.

The Subcommittee on The Role of Government in the Economy of the National Productivity Advisory Committee will meet at 4:00 p.m. on June 21, 1982, in Room 3424, Main Treasury Building, 15th and Pennsylvania Avenue, NW, Washington, D.C.

The purpose of the meeting will be to discuss ways in which changes in government policy can improve national productivity.

Roger B. Porter,
Executive Secretary, National Productivity Advisory Committee.

[FR Doc. 82-15818 Filed 6-10-82; 8:45 am]
BILLING CODE 4810-25-M

Sunshine Act Meetings

Federal Register

Vol. 47, No. 113

Friday, June 11, 1982

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

CIVIL AERONAUTICS BOARD

[M-356; June 8, 1982]

TIME AND DATE: 10 a.m., June 15, 1982.**PLACE:** Room 1027 (open), room 1012 (closed), 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT:

1. Ratification of items adopted by notation.
2. Notice of incorporation by reference of terms of contracts of carriage after sunset of domestic tariffs. (Memo 1333, OGC, BDA, BIA, OCCCA)
3. Removal of Part 262. (OGC, BIA, OC)
4. Docket 40508, *Air Atlanta, Inc., Fitness Investigation; Order Declining Review.* (OGC)
5. Docket 35107, *Hawaii Common Fares Investigation.* (Memo 226-E, OGC)
6. Dockets 30790, 33472, 40461, *United States—Benelux Low-Fare Proceeding, Application of New ONA, Inc., Revocation of Supplemental Service Certificates of Overseas National Airways—Petitions for Reconsiderations.* (Memo 1340, OGC)
7. Guaranteed air fare rules—industry letter regarding carriers providing notice to passengers of any changes in carrier practices after the end of 1982. (BIA)
8. Docket 32484, *The Seventh Review of Class Rate IX and termination of Section 406 subsidy payments at the end of FY 1982.* (Memo 269-C, BDA, OCCCA, OC)
9. Dockets 36204, 38046 and 40287, *Pennsylvania Commuter Airlines' final hold-in compensation for the provision of essential air service at Clearfield/Philipsburg.* (BDA, OCCCA, OC)
10. Docket 39480, *Essential Air Service for Brookings, Huron and Mitchell, South Dakota.* (BDA, OCCCA, OC)

11. Dockets 39820 and EAS-656, *Amended essential air service determination for Parkersburg, West Virginia which designated Columbus, Ohio as an additional essential hub for a one-year test period.* (BDA)

12. Docket EAS-754, *Essential Air Service Eligibility for Rome, Georgia.* (BDA, OGC, OCCCA)

13. Docket 40453, *Air National Aircraft Sales and Service, Inc.—Application for a section 418 All-Cargo Air Service Certificate.* (Memo 1335, BDA)

14. *Commuter carrier fitness determination of Wheeler Airlines.* (BDA)

15. *Commuter carrier fitness determination of Sunbelt Airlines, Inc.* (BDA)

16. *Commuter carrier fitness determination of Spirit Airways, Inc.* (BDA)

17. Dockets 40613 and 40614, *American World Airways' application for a certificate of public convenience and necessity under section 401(d)(1) for interstate and overseas air transportation and under section 401(d)(3) for foreign charter authority.* (BDA)

18. Docket 40345, *Certificate Application of Airpac, Inc., Filed under Subpart Q.* (Memo 1119-A, BDA)

19. Docket 37392, *Transatlantic, Transpacific and Latin American Service Mail Rates Investigation.* (Memo 343-K, BIA)

20. Docket 37294, *Priority and Nonpriority Domestic Service Mail Rates Investigation.* (BIA)

21. Docket 39606, *Application of Lufttransport-Unternehmen KG. (LTU) for amendment and renewal of its foreign air carrier permit to conduct passenger and cargo charter operations.* (BIA)

22. Docket 40545, *CAB Recommendations to the FAA concerning slot allocations under the Interim Operations Plan.* (Memo 1148-C, OGC)

23. *Negotiations with Scandinavia.* (BIA)

24. *Negotiations with France.* (BIA)

25. *Report on China Negotiations.* (BIA)

26. *Negotiations with Canada.* (BIA)

27. *Negotiations with ECAC.* (BIA)

STATUS: 1-22 Open, 23-27 Closed.**PERSON TO CONTACT:** Phyllis T. Kaylor, the Secretary (202) 673-5068.

[S-872-82 Filed 6-9-82; 3:22 pm]

BILLING CODE 6320-01-M

2

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 9:45 a.m. on Tuesday, June 8, 1982, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by means of a telephone conference call, to consider certain

personnel actions (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)).

In calling the meeting, the Board determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), 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)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(2) and (c)(6)).

Dated: June 8, 1982.

Federal Deposit Insurance Corporation.

Alan J. Kaplan,

Deputy Executive Secretary.

[S-860-82 Filed 6-9-82; 12:29 pm]

BILLING CODE 6714-01-M

3

FEDERAL HOME LOAN BANK BOARD

TIME AND DATE: 10 a.m., Wednesday, June 16, 1982.**PLACE:** Board room, Sixth floor, 1700 G Street NW., Washington, D.C.**STATUS:** Open meeting.

CONTACT PERSON FOR MORE

INFORMATION: Mr. Marshall (202-377-6679).

MATTERS TO BE CONSIDERED:

Reconsideration of the Merger of—Home Federal Savings and Loan Association, Yakima, Washington INTO First Federal Savings and Loan Association of Walla Walla, Walla Walla, Washington.

Monitoring Fair Lending Practices.

[No. 40, June 9, 1982]

[S-867-82 Filed 6-9-82; 10:17 am]

BILLING CODE 6720-01-M

4

INTER-AMERICAN FOUNDATION

TIME AND DATE: 6:30 p.m., June 17, 1982.**PLACE:** Hotel Santo Domingo Sur, Avenida Independencia Esq. Abraham Lincoln, Santo Domingo, Dominican Republic.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Chairman's Report;
2. President's Report;
3. Minutes of April 26-27, 1982 Board meeting;
4. Other Business.

CONTACT PERSON FOR MORE

INFORMATION: Lawrence E. Bruce, Jr.
(703) 841-3812.

[S-873-82 Filed 6-9-82; 3:23 pm]

BILLING CODE 7025-01-M

5

**NATIONAL CREDIT UNION
ADMINISTRATION**

TIME AND DATE: 9:30 a.m., Wednesday,
June 16, 1982.

PLACE: Seventh floor board room, 1776 G
Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Review of Central Liquidity Facility lending rate.
2. Report on status of National Credit Union Share Insurance Fund.
3. Policy statement on examination and enforcement of state unclaimed property laws.
4. Proposed amendment to expand the field of membership of Mid-States Corporate FCU charter.
5. Proposed conversion to community charter of West Haven Teachers FCU #2936.

RECESS: 10:15 a.m.

TIME AND DATE: 10:30 a.m., Wednesday,
June 16, 1982.

PLACE: Seventh floor board room, 1776 G
Street NW., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Requests from federally insured credit unions for special assistance to prevent liquidation under Section 208(a)(1) of the Federal Credit Union Act. Closed pursuant to exemptions (8) and (9)(A)(ii).
2. Administrative Adjudication pursuant to 12 U.S.C. 1786. Closed pursuant to exemptions (8) and (10).

FOR MORE INFORMATION CONTACT:

Rosemary Brady, Secretary of the Board,
telephone (202) 357-1100.

[S-869-82 Filed 6-9-82; 1:04 pm]

BILLING CODE 7535-01-M

6

**NATIONAL CREDIT UNION
ADMINISTRATION**

Change in Subject of Meeting

The National Credit Union Administration Board determined that its business required that the previously announced closed meeting on Wednesday, April 21, 1982, include the following additional items, which were closed to public observation:

- Regional Reorganization. Closed pursuant to exemption (2).
- Reallocation of Resources. Closed pursuant to exemptions (2) and (9)(B).

The previously announced items were:

1. Administrative Adjudications. Closed pursuant to exemptions (8), (9)(A)(ii) and (10).
2. Requests from Federally Insured Credit Unions for Special Assistance Under Section 208(a)(1) of the Federal Credit Union Act. Closed pursuant to exemptions (8) and (9)(A)(ii).
3. Requests for Mergers with Special Assistance under Section 208(a)(2) of the Federal Credit Union Act. Closed pursuant to exemptions (8) and (9)(A)(ii).
4. Requests for Purchase and Assumption with Special Assistance under Section 208(a)(2) of the Federal Credit Union Act. Closed pursuant to exemptions (8) and (9)(A)(ii).

The meeting was held at 10:45 a.m., in the Seventh Floor Board Room, 1776 G Street, NW., Washington, D.C.

FOR MORE INFORMATION CONTACT:

Rosemary Brady, Secretary of the Board,
telephone (202) 357-1100.

[S-870-82 Filed 6-9-82; 1:05 pm]

BILLING CODE 7535-01-M

7

**NEIGHBORHOOD REINVESTMENT
CORPORATION**

Fourth Annual Meeting

TIME AND DATE: 2 p.m., June 16, 1982.

PLACE: Board Room, sixth floor, Federal Home Loan Bank Building, 1700 G Street, NW., Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE

INFORMATION: Timothy McCarthy,
Associate Director, Communications
202-377-6815.

AGENDA:

- I. Call to Order and Remarks of the Chairman
- II. Approval of Minutes, April 5, 1982
- III. Approval of Audit Committee
- IV. Report of the Audit Committee
- V. Election of Officers
- VI. Executive Director's Report
- VII. Treasurer's Report

[No. 22, June 9, 1982]

Donnie L. Bryant,

Secretary.

[S-874-82 Filed 6-9-82; 3:42 pm]

BILLING CODE 0-000-00-M

8

**PACIFIC NORTHWEST ELECTRIC POWER
AND CONSERVATION PLANNING COUNCIL**

TIME AND DATE: 9 a.m., June 17, 1982.

PLACE: Federal Building, South Auditorium, 915 Second Avenue, Seattle, Washington.

MATTERS TO BE CONSIDERED:

1. Staff briefing on alternative assumptions on regional economic and population growth.
2. Presentation on methodologies used in the development of the Northwest Conservation Act Coalition "Model Plan."
3. Council Business.

CONTACT PERSON FOR MORE

INFORMATION: Ms. Bess Wong, (503) 222-5161.

Edward Sheets,

Executive Director.

[S-871-82 Filed 6-9-82; 3:01 pm]

BILLING CODE 0000-00-M

9

SYNTHETIC FUELS CORPORATION

Meeting of the Board of Directors

ACTION: Notice of meeting.

SUMMARY: Interested members of the public are invited to attend and observe a meeting of the Board of Directors of the United States Synthetic Fuels Corporation to be held at the time, date and place specified below. This public announcement is made pursuant to the open meeting requirements of Section 116(f)(1) of the Energy Security Act (9 Stat. 611, 637; 42 U.S.C. 8701, 8712(f)(1) and Section 4 of the Corporation's Statement of Policy on Public Access to Board Meetings. During the meeting, the

Board of Directors may consider a resolution to close a portion of the meeting pursuant to Article II Section 4 of the Corporation's By-laws, Section 116(f) of the said Act and Sections 4 and 5 of the said policy.

MATTERS TO BE CONSIDERED:

1. Approval of Minutes of Prior Meeting.
2. Management Report.
3. Employee Benefit and Retirement Plans.
4. Compensation of the Inspector General and Deputy Inspector General.
5. Ratification of Claim Settlement.
6. Standards of Conduct Policy.
7. Task Force Report on Programmatic Strategy.
8. Proposals Received Under Second Solicitation.
9. Status of Project Monitoring.
10. Consideration of Projects in Phase IIA.

In addition, the Board of Directors will consider such other matters as may be properly brought before the meeting.

TIME AND DATE: 8:30 a.m., June 17, 1982.

PLACE: Key Bridge Marriott Hotel, Rosslyn, Virginia.

PERSON TO CONTACT FOR MORE

INFORMATION: If you have any questions regarding this meeting, please contact Mr. Owen J. Malone, Office of General Counsel (202)822-6336.

June 8, 1982.

United States Synthetic Fuels Corporation.

Edward E. Noble,

Chairman of the Board.

[S-806-82 Filed 6-9-82; 8:45 am]

BILLING CODE 0000-00-M

Federal Register

Friday
June 11, 1982

Part II

Department of Labor

**Employment Standards Administration,
Wage and Hour Division**

**Minimum Wages for Federal and
Federally Assisted Construction; General
Wage Determination**

DEPARTMENT OF LABOR

Employment Standards
Administration, Wage and Hour
DivisionMinimum Wages for Federal and
Federally Assisted Construction;
General Wage Determination
Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24-70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12-71 and 15-71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be

impractical and contrary to the public interest.

General wage determination decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas
Decisions to General Wage
Determination Decisions

Modifications and supersedeas decisions to general wage determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24-70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's orders 13-71 and 15-71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedeas

decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Office of Government Contract Wage Standards, Division of Government Contract Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Determination Decision.

Modifications to General Wage
Determination Decisions

The numbers of the decisions being modified and their dates of publication in the **Federal Register** are listed with each State.

Connecticut:	
CT82-3001	Feb. 5, 1982.
CT81-3032	May 15, 1981.
Pennsylvania:	
PA82-3017	Mar. 26, 1982.
PA81-3090	Dec. 18, 1981.
Kansas: KS82-4013	Apr. 16, 1982.
West Virginia: WV82-3003	May 14, 1982.
Maryland:	
MD81-3056	Aug. 14, 1981.
MD81-3074	Oct. 9, 1981.

Please note that we are changing the format for **Federal Register** wage decisions to coincide with the provisions of All Agency Memorandum No. 132 dated January 29, 1980, which provides that the Department of Labor will discontinue identifying fringe benefits separately. Rather, they will be stated as a composite figure which is the total hourly equivalent value of fringe benefits found to be prevailing. Fringe benefits which can not be stated in monetary terms will be shown in footnotes. This procedure will be phased in gradually.

Signed at Washington, D.C., this 4th day of June 1982.

Dorothy P. Come,
Assistant Administrator, Wage and Hour
Division.

BILLING CODE 4510-27-M

MODIFICATION PAGE 4

MODIFICATION PAGE 3

DECISION NO. / (CONT'D)	Basic Hourly Rates	Fringe Benefits	DECISION NO. / (CONT'D)	Basic Hourly Rates	Fringe Benefits
DECISION NO. PA82-3017 - (CONT'D)			DECISION NO. MD81-3056 - MOD. #2 (46 FR 41325 - August 14, 1981) BALTIMORE CITY, MARYLAND		
POWER EQUIPMENT OPERATORS	15.14	22.68+	CHANGE: POWER EQUIPMENT OPERATORS	12.70	2.55
GROUP 1	14.85	"	Group I	12.10	2.55
GROUP 2	13.97	"	Group II	11.41	2.55
GROUP 3	13.20	"	Group III	10.13	2.55
GROUP 4	12.72	"	Group IV		
GROUP 5	11.80	"			
GROUP 6	15.39	"	DECISION NO. MD81-3074 - MOD. #8 (46 FR 50238 - October 9, 1981) ANNE ARUNDEL (EXCLUDING THE D.C. TRAINING SCHOOL) BALTIMORE AND BALTIMORE CITY, MARYLAND AND FOR HEAVY CONSTRUCTION PROJECTS IN HARFORD & HOWARD COUNTIES, MARYLAND		
GROUP 7	15.64	"	CHANGE: POWER EQUIPMENT OPERATORS (PAVING, SITE CLEARANCE AND UTILITIES):	12.70	2.55
GROUP 7-A	15.89	"	Group I	12.10	2.55
GROUP 7-B	15.09	2.60	Group II	11.41	2.55
PIPEFITTERS			Group III	10.13	2.55
ROOFERS:			Group IV		
Composition & Kettleman	13.32	2.13			
SHEET METAL WORKERS	14.82	1.85			
SOFT FLOOR LAYERS:					
Lackawanna, Wayne and Susquehanna Counties	13.86	1.75			
Wyoming County	11.69	1.95			
SPRINKLER FITTERS	16.92	2.83			
DECISION NO. PA81-3090 MOD. NO. 3 (46 FR 61813 - December 18, 1981) Lycoming County, Pennsylvania					
CHANGE:					
Electricians	\$12.21	3.18+3%			
Plumbers	13.51	2.19			
Roofers, Kettleman	13.30	2.10			
Steamfitters	15.51	2.19			
Truck Drivers	8.75				
DECISION NO. KS82-4013 MOD. #5 (47 FR 16519 - April 16, 1982) Leavenworth County, Kansas			CHANGE: Roofers	\$15.23	2.36
DECISION NO. WV82-3003 - MOD. #1 (47 FR 20992 - May 14, 1982) STATEWIDE WEST VIRGINIA					
OMIT: Laborers-Group 5-Flagman Laborers-Group 6-Watch- man					

[FR Doc. 82-15609 Filed 6-10-82; 8:45 am]

BILLING CODE 4510-27-M

Federal Register

Friday
June 11, 1982

Part III

Department of Agriculture

Office of the Secretary

**Nondiscrimination—Direct USDA
Programs and Activities; and
Nondiscrimination on the Basis of
Handicap Programs and Activities
Receiving or Benefiting From Federal
Financial Assistance**

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 15

Nondiscrimination; Direct USDA Programs and Activities

AGENCY: Agriculture Department.

ACTION: Final rule.

SUMMARY: This rule prohibits agencies, officers, and employees of the Department of Agriculture from discriminating on the basis of handicap against qualified handicapped persons in any program or activity administered by the Department. Such discrimination is prohibited by Section 504 of the Rehabilitation Act of 1973, as amended by the Rehabilitation, Comprehensive Services and Developmental Disabilities Amendments of 1978. The effect of this action will be to alert agencies, officers, and employees of the Department to the prohibitions of Section 504 of the Rehabilitation Act of 1973, as amended, until the Department develops more detailed regulations.

EFFECTIVE DATE: June 11, 1982.

FOR FURTHER INFORMATION CONTACT:

William C. Payne, Jr., Policy and Operations Division, Office of Minority Affairs, U.S. Department of Agriculture, Washington, D.C. 20250. Phone: 202-382-1130 (voice and TTY—

telecommunications device). Copies of this rule are available in Braille and on tape and will be provided upon request.

SUPPLEMENTARY INFORMATION: Section 504 of the Rehabilitation Act of 1973, as amended, by the Rehabilitation, Comprehensive Services and Developmental Disabilities Amendments of 1978, (29 U.S.C. 794) provides that: "No otherwise qualified handicapped individual in the United States * * * shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance or under any program or activity conducted by any Executive agency or by the United States Postal Service." Accordingly, this rule will add "handicap" to the current prohibitions against discrimination on the bases of race, color, religion, sex, age and national origin in programs and activities conducted by the Department.

Since no legal requirements are established beyond those contained in Section 504 itself, the Department, pursuant to 5 U.S.C. 553, for good cause finds that general notice of proposed rulemaking and public procedure thereon are unnecessary. The Secretary

has determined that this regulation is not a major rule as defined by Executive Order 12291. According to that order, a major rule is one that is likely to result in: an annual effect on the economy of \$100 million or more; 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.

The Department does not believe that this regulation will have any of these consequences. Its conclusion is based upon the fact that the regulation establishes no new legal requirements. As a result, it is not necessary to prepare a Regulatory Impact Analysis.

Furthermore, the Secretary has determined that this action will not have a significant economic impact on a substantial number of small entities because the regulation impacts on direct USDA programs only. Therefore, no Regulatory Flexibility Analysis is required.

Pending the issuance of Government-wide guidelines by the Department of Justice, the Department of Agriculture will develop more detailed regulations implementing Section 504 as it pertains to programs it conducts.

A final regulation similar to this regulation but pertaining to federally assisted programs, is being published simultaneously with this regulation.

List of Subjects in 7 CFR Part 15

Administrative practice and procedure, Civil rights, Government contracts, Grant programs—Agriculture, Loan programs—Agriculture.

For the reasons given above, Title 7, Part 15, Subpart B of the Code of Federal Regulations is amended as follows:

PART 15—NONDISCRIMINATION

1. The authority citation is revised to read as follows:

Authority: 78 Stat. 252; 80 Stat. 379; 87 Stat. 394, as amended by 92 Stat. 2955; 42 U.S.C. 2000d-1; 5 U.S.C. 301, 29 U.S.C. 794.

2. Section 15.51 is revised to read as follows:

§ 15.51 Discrimination prohibited.

(a) No agency, officer, or employee of the United States Department of Agriculture, shall exclude from participation in, deny the benefits of, or subject to discrimination any person in the United States on the ground of race, color, religion, sex, age, handicap, or

national origin under any program or activity administered by such agency, officer, or employee.

(b) No agency, officer, or employee of the Department shall on the ground of race, color, religion, sex, handicap, age, or national origin deny to any person in the United States: (1) Equal access to buildings, facilities, structures, or lands under the control of any agency in this Department, equal opportunity for employment, for participation in meetings, demonstrations, training activities or programs, fairs, awards, field days, encampments, for receipt of information disseminated by publication, news, radio, and other media, for obtaining contracts, grants, loans, or other financial assistance or for selection to assist in the administration of programs or activities of this Department.

Dated: June 3, 1982.

John R. Block,
Secretary.

[FR Doc. 82-15802 Filed 6-10-82; 8:45 am]

BILLING CODE 3410-95-M

7 CFR Part 15b

Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting From Federal Financial Assistance

AGENCY: Agriculture Department.

ACTION: Final rule.

SUMMARY: This rule prohibits entities which operate programs assisted by this Department from discriminating against qualified handicapped persons on the basis of handicap. The rule is necessary to implement section 504 of the Rehabilitation Act of 1973, as amended, and Executive Order 12250 of November 2, 1980, Leadership and Coordination of Nondiscrimination Laws. The effect of this action will be to define and forbid acts of discrimination in the operation of programs and activities and to specify certain administrative requirements to reduce the possibilities for discrimination.

The public is advised that the general government guidelines published in 1978 by the then Department of Health, Education and Welfare are now under review by the Department of Justice. Should the Department of Justice determine that the general government guidelines should be revised, the Department of Agriculture will revise its Section 504 regulations accordingly. In light of the possibility that the 504

regulations published here may be subject to such a revision, the Department will receive public comments on possible changes and on the economic impact of these regulations. This announcement does not commit the Department in any way to change its regulations.

DATES: Effective Date: July 12, 1982. Comments should be received by August 10, 1982.

ADDRESS: Comments should be directed to Isidoro Rodriguez, Acting Director, Office of Minority Affairs, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: William C. Payne, Jr., Policy and Operations Division, Office of Minority Affairs, U.S. Department of Agriculture, Washington, D.C. 20250. Phone: 202-382-1130 (voice and TDD—telecommunications device). Copies of this rule are available in Braille and on tape and will be provided upon request. Though not required by Executive Order 12291, a Final Impact Statement describing the options considered in developing this final rule and the impact of implementing each option is also available upon request from the above named individual.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

Information collection requirements contained in this regulation, § 15b.8(c), have been approved by the Office of Management and Budget under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB number 0505-003.

Background

Section 504 of the Rehabilitation Act of 1973, as amended, provides that: "No otherwise qualified handicapped individual in the United States * * * shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance or under any program or activity conducted by any Executive agency or by the United States Postal Service." These regulations implement Section 504 as it pertains to federally assisted programs and activities, that is, where Federal assistance flows from the Department through an intermediary called a recipient. Regulations to implement section 504 as it pertains to federally conducted programs will be considered in the future.

On April 28, 1976, Executive Order 11914, "Nondiscrimination with Respect to the Handicapped in Federally

Assisted Programs," was issued. This Executive Order assigned to the Department of Health, Education, and Welfare (HEW) the responsibility for coordinating the implementation of section 504 for federally assisted programs. HEW published "Implementation of Executive Order 11914" (45 CFR 85.1-85.99), guidelines for Federal agencies, on January 13, 1978. The regulations established Federal agency responsibilities, standards for determining who are handicapped persons, and guidelines for determining discriminatory practices in employment and program services.

The HEW guidelines recognized that because of the diversity of types of handicaps and the variety of settings in which federally assisted programs are offered, the prohibition of discrimination would not itself be sufficient to ensure handicapped persons an equal opportunity to enjoy benefits. For example, admission of a hearing-impaired person to an educational program would be meaningless unless adequate visual materials or an interpreter were also provided. Accordingly, the guidelines specified that recipients be required to make special accommodations for handicapped persons where necessary and even to provide special programs if that is the only way in which an equal opportunity to participate in the federally assisted program can be assured. At the same time, the guidelines took into consideration the financial and human burdens entailed in making federally assisted programs accessible to handicapped persons and made allowances to minimize hardship.

In developing proposed regulations to implement section 504, the Department of Agriculture followed the HEW guidelines and that Department's own section 504 regulations which were later adopted by the Department of Health and Human Services (45 CFR 84.1-84.99) and by the Department of Education (34 CFR 84.1-84.99). The Department of Agriculture's proposed section 504 regulations were published on January 29, 1979 (44 FR 4620) and widely distributed among organizations representing handicapped persons, Federal agencies, and entities administering programs assisted by the Department. A thorough discussion of the public comment received is contained below in Explanation of Revisions and Response to Comments.

On November 2, 1980, Executive Order 12250, Leadership and Coordination of Nondiscrimination Laws, transferred coordination authority for the implementation of section 504 in regard to federally assisted programs

from the Department of Health and Human Services, which had succeeded the Department of Health, Education and Welfare, to the Department of Justice. On August 4, 1981, at 46 FR 49686, the Department of Justice redesignated the HEW Guidelines of January 13, 1978, entitled "Implementation of Executive Order 11914," as Department of Justice Guidelines. The guideline will be recodified at 28 CFR Part 41.

In compliance with Executive Order 12250 and "Implementation of Executive Order 11914" these regulations have been reviewed and approved by the Department of Justice, the Equal Employment Opportunity Commission, and the Architectural and Transportation Barriers Compliance Board.

On June 19, 1981, the District Court in *Paralyzed Veterans of America v. Smith* (No. 79-1979 C.D. Cal.), granted a preliminary injunction ordering Federal agencies to publish final regulations on an expedited basis implementing section 504. This rule is being published pursuant to the Court order.

Classification

The Secretary has determined that this regulation is not a major rule as defined by Executive Order 12291. According to that order, a major rule is one that is likely to result in: An annual effect on the economy of \$100 million or more; 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.

The Department does not believe that its section 504 regulations will have any of these consequences. Its conclusion is based upon cost estimates for recipients implementing the regulation, the various elements of flexibility that have been incorporated into the regulation to minimize cost, and estimated benefits for handicapped persons and society that will result. Each of these considerations cut across all of the factors involved in determining whether or not a regulation is a "major rule".

Regulatory Flexibility Analysis

The Secretary has determined that this action will not have a significant economic impact on a substantial number of small entities because of allowances in the regulations for

recipients to adopt the least costly methods of achieving compliance where existing facilities are inaccessible or to obtain modifications of requirements for existing facilities if compliance would result in the impairment of significant features of historic properties. In addition, employers are only required to make accommodations for qualified handicapped persons if those accommodations do not cause an undue economic hardship on the operation of the assisted program. Certain administrative requirements are also waived for recipients employing fewer than fifteen persons.

Overview of the Regulations

The regulations are divided into seven parts. Subpart A, General Provisions, establishes basic definitions, concepts of nondiscrimination, and administrative requirements. Key definitions are those for recipient, Federal financial assistance, and qualified handicapped persons. The subpart generally prohibits recipients from discriminating against qualified handicapped persons solely on the basis of handicap through exclusion from program participation, denial of benefits, or other discriminatory actions. Administrative requirements include an assurance of nondiscrimination, designation of an employee responsible to coordinate compliance with the regulations, adoption of a grievance procedure, notification of interested persons that the recipient does not discriminate on the basis of handicap and that its program is accessible, and a self-evaluation of the program by the recipient. The subpart also specifies when remedial actions can be required and when they can be adopted voluntarily. Finally, Subpart A advises recipients that administrative requirements, adequately completed in compliance with regulations of other Federal agencies or State agencies, will satisfy this regulation.

Subpart B, Employment Practices, develops the basic concept of nondiscrimination in terms of employment by the recipient. All terms, conditions and privileges of employment are covered. In particular, recipients are prohibited from making preemployment inquiries as to whether an applicant is a handicapped person or the nature or severity of a handicap except in certain limited situations and then only in compliance with the regulations. Beyond the prohibition of discriminatory practices, the subpart requires recipients to make reasonable accommodations to the known physical or mental limitations of otherwise qualified handicapped applicants or employees.

Accommodations that are unreasonable, that is, that impose an undue hardship on the operation of the program, are not required. Factors to be considered in determining the reasonableness of accommodations are listed.

Subpart C, Program Accessibility, describes what is meant by nondiscrimination in regard to the accessibility of facilities. Two standards are set, one for existing facilities and one for new construction and alterations. Where existing facilities are inaccessible, recipients can make the assisted program accessible through such means as the relocation of services to accessible facilities, the provision of aides, or home visits. Only when nonstructural alternatives are inadequate to provide handicapped persons with an equal and effective opportunity to participate in the program are structural alterations or new construction required. In this case, a transition plan must be prepared describing the steps necessary to complete the structural changes in the three-year period allowed for such changes. All new construction and alterations must be designed and constructed to be accessible.

Subpart D, Preschool, Elementary, Secondary, Adult, and Extension Education, specifies the meaning of program accessibility for these programs. Public elementary and secondary programs must identify handicapped persons entitled to services and provide them with a free appropriate public education. Recipients operating public elementary and secondary education programs must also meet certain technical standards and procedural safeguards in the evaluation, placement, and reevaluation of handicapped persons who need or are believed to need special education or related services. Recipients operating private elementary and secondary education programs must provide qualified handicapped persons with an appropriate education in an integrated setting for both academic and nonacademic activities. Private school recipients are not held, however, to the same technical and procedural requirements for special education programs as public school recipients and may charge a handicapped person more than a nonhandicapped person if the provision of services to a handicapped person results in substantial cost increases. Both public and private education programs are prohibited from discriminating in the operation of food service programs and are specifically directed to provide special meals at no extra charge to

students whose handicap restricts their diet. Recipients operating extensive education programs must make their services, including camping activities and program materials, accessible to handicapped persons.

Subpart E, Postsecondary Education, prohibits recipients operating postsecondary education programs, including vocational education programs, from discriminating on the basis of handicap in admissions and recruitment and in the provision of academic and nonacademic services. Included in the latter are housing, financial aid and employment assistance.

Subpart F, Other Programs and Activities, prohibits discrimination in programs and activities not covered by subparts D and E. Recipients are required to provide effective notice concerning benefits, waivers of rights, or consent to treatment to persons with impaired sensory or speaking skills. In particular, recipients operating hospital programs must establish a procedure for providing emergency treatment for the hearing-impaired and may not discriminate in the admission or treatment of drug or alcohol abusers.

A new section on multi-family rental housing requires that five percent or at least one of the units in new rental housing projects must be accessible or adaptable to physically handicapped persons. To allow for local market conditions, some flexibility is permitted in the number of accessible or adaptable units required above one.

Subpart G stipulates that the same procedural provisions applicable to the enforcement of Title VI of the Civil Rights Act of 1964 will apply to the regulations implementing Section 504 of the Rehabilitation Act of 1973. These procedures provide for monitoring of compliance records, complaint processing, hearings, termination of assistance, and enforcement by any other means authorized by law.

Explanation of Revisions and Responses to Comments

The Department of Agriculture's final regulations implementing section 504 of the Rehabilitation Act of 1973 have been patterned after the section 504 regulations of the Department of Health and Human Services (HHS) (42 FR 22675 (1977), 45 CFR 84.1-84.99 (1979)) and the Department of Education (ED) (45 FR 30802 (1980), 34 CFR 84.1-84.99 (1980)). The Department adopted this approach in order to simplify compliance for its many recipients who are also affected by the HHS or ED regulations. Since analyses of each section of the HHS and

ED section 504 regulations were published with those regulations, this section is intended to supplement rather than repeat those analyses. Other general interpretive material can be found in the guidelines, "Implementation of Executive Order 11914," (43 FR 1231 (1978), 45 CFR 85.1-85.99), originally published by the Department of Health, Education and Welfare and subsequently adopted by the Department of Justice according to Executive Order 12250 (45 FR 72995 (1980)). The Department of Health and Human Services' published Policy Determinations (43 FR 18629 (1978) and 43 FR 36033 (1978)) address specific issues.

The final regulations have also been patterned after the Department's regulations implementing Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d (relating to race, color and national origin), and Title IX of the Education Amendments of 1972, as amended, 42 U.S.C. 1683 (relating to sex), except where the legislative history of section 504 or government policy has required a different approach. The Department's Title VI regulations appear at 7 CFR 15.1-15.12 and 15.60-15.124 (1980), and the Title IX regulations appear at 7 CFR 15a.1-15a.71 (1980).

The Department received 74 letters of official comment on the proposed regulations containing approximately 250 recommendations. Most of these comments were from recipients or organizations representing recipients and from agencies within the Department.

Nearly every section of the regulations received some comment. In general commenters approved of the regulations and their similarity to the HHS and ED section 504 regulations. One frequent recommendation was that the regulations should be tailored more specifically to this Department's programs. As a result, several agencies of the Department were involved in preparing new language pertaining to specific program areas.

Other concerns of commenters were the potential costs of making existing facilities accessible, the meaning of requirements for auxiliary aids, and the administrative burdens involved in compliance. The Department has attempted to respond to these concerns either by modifying the proposed regulations or by explaining the regulatory requirements.

Several editorial changes have been made to the text of the proposed regulations in the interest of clarity. These changes are minor and will not be discussed below.

Subpart A—General Provisions

Section 15b.1 Purpose.

This section has been rewritten to conform to the language of section 504 of the Rehabilitation Act of 1973.

Several commenters suggested that the regulations be revised to implement the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978, Pub. L. 95-602, 92 Stat. 2955 (1978). The regulations have been revised to incorporate those sections of the 1978 amendments which affect Federally assisted programs and activities. Consequently, the phrase, "as amended," has been added to this section.

We note that the 1978 amendments include a provision prohibiting Executive agencies from discriminating against qualified handicapped individuals in programs which those agencies operate themselves. While these regulations express the Department's general policies in regard to programs and activities which it directly administers, the regulations are not strictly applicable to such programs and activities. The Department is considering what additional regulations may be necessary to carry out this provision of the 1978 amendments.

Section 15b.2 Applicability.

In response to a comment and because of the Department's desire to clarify the applicability of these regulations, this section has been rewritten to conform to the language in this section to the language in section 504, Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, as amended, and the Department's Title VI regulations.

This section has also been modified by adding language to clarify the applicability of the specific subparts.

Section 15b.3 Definitions.

Section 15b.3(a) The Act.

The definition of "Executive Order" has been deleted because Executive Order 11914 is not referred to in the body of the regulations.

Reference to the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978, Pub. L. 95-602, 92 Stat. 2955 (1978), has been added to the definition of "the Act" as recommended in several comments, and because these regulations have been revised to incorporate those sections of the 1978 amendments which affect Federally assisted programs and activities.

Section 15b.3(f) (formerly, § 15b.3(g) Recipient.

One commenter asked that the extent of coverage for States and their political subdivisions be clarified. Another suggested that definitions for primary recipient, sub-recipient, and beneficiary be added. The Department recognizes that questions as to the meaning of the term, "recipient," may arise in specific situations, especially in programs which refer to ultimate beneficiaries as recipients. However, the Department feels that these questions can best be resolved through program guidelines and case by case interpretations rather than by expanding the definition of "recipient." For purposes of these regulations, "recipient" will have the same meaning as it has in the Department's Title VI regulations.

Section 15b.3(g) (formerly, § 15b.3(i)) Federal financial assistance.

Two commenters pointed out that certain types of assistance, special use permits and food commodities in particular, were not clearly included in the definition of Federal financial assistance. The Department considers special use permits issued for less than fair market value, for reduced consideration or in recognition of the public nature of the assisted recipient program or activity to be Federal financial assistance and has added the phrase, "use (on other than a casual or transient basis) of Federal property for less than fair market value, for reduced consideration, or in recognition of the public nature of the recipient's program or activity," to the list of covered real and personal property (§ 15b.3(g)(3)(i)), in order to clarify the Department's interpretation of Federal financial assistance and to conform the definition to that which appears in the Department's Title VI and Title IX regulations. The phrase, "any other thing of value," has been added to cover food commodities as well as other forms of assistance not specifically included in the proposed definition of "Federal financial assistance."

One commenter requested that definitions of indirect and direct assistance be added to the regulations. The Department does not feel that this is necessary since the regulations will apply to the same recipients as have been covered by our Title VI regulations for indirect assistance. Several comments questioned whether contracts of insurance or guarantee should be excluded from the definition. The Department has retained the exclusion as it is consistent with the legislative

history of Section 504 and government policy. The interpretation of "contracts of insurance or guarantee" will be the same as used under Title VI. As recommended by one commenter, formula allocations have been added to the list of covered arrangements between recipients and the Department.

Section 15b.3(g) Applicant for assistance.

The definition of "applicant for assistance" has been deleted since the term is self-explanatory.

Section 15b.3(i) (formerly, § 15b.3(k)) Handicapped person.

Several commenters raised questions about the manner in which handicapped persons were to be identified. Section 504 and these regulations do not require that recipients identify which of their beneficiaries or employees are handicapped. Rather, recipients are to provide equitable services and employment opportunities to all qualified persons. Where handicapped persons have requested special programs or employment accommodations, recipients may, in certain cases, require medical certification that such accommodations are necessary because of a physical or mental impairment. However, there is no general requirement that physical or mental impairments be medically certified in order for a person to qualify as handicapped. In fact, it is not even necessary for a "handicapped person" to have a physical or mental impairment as long as a recipient regards that person as having such an impairment.

Section 15b.3(j) (formerly, § 15b.3(k)(i)(B)) Physical or mental impairment.

Positive comments were received on the partial list of diseases and impairments in § 15b.3(j)(2) which constitute physical and mental impairments.

Section 15b.3(k) (formerly, § 15b.3(j)(2)(ii)) Major life activities.

One commenter recommended that the definition of major life activities be modified to reflect the definitions used in the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978. The Department considers the two definitions to be compatible and has therefore not amended the regulations.

Section 15b.3(n) (formerly, § 15b.3(l)) Qualified handicapped person.

The Department regards the terms, "otherwise qualified handicapped person" and "qualified handicapped

person," to be synonymous. Like HHS and ED this Department means by these terms handicapped persons who are qualified in spite of their handicap (45 CFR Part 84, App. A (1979) at p. 405). The definition is consistent with *Southeastern Community College v. Davis*, 442 U.S. 397, 406-407 (1979).

No change has been made to the basic definition of qualified handicapped persons with respect to employment. Even though the definition refers to handicapped persons who, with reasonable accommodation, can perform the essential functions of the job in question, the definition does not exclude handicapped persons who do not need any accommodation. The requirement that handicapped persons be able to perform essential job functions has been retained to conform to DOJ guidelines. In judging whether essential job functions can be performed, recipients may hold handicapped applicants to the same standards of education, training, and experience as are applied to nonhandicapped applicants.

Further guidance on the qualifications of alcoholics and drug addicts has been added to this section in accordance with the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978. This language means that alcoholism and drug addiction, in themselves, cannot be used to disqualify persons for employment. However, inability to fulfill the duties of the job or endangering property or the safety of others, due to current alcohol or drug abuse, are legally disqualifying factors.

The definition of qualified handicapped person for purposes of postsecondary and vocational education has been modified by specifying that a handicapped person must meet "all" rather than "the" academic and technical standards requisite to admission or participation in the recipient's education program or activity. This was done to clarify the Department's intention to respect *bona fide* academic and technical standards of postsecondary and vocational education programs.

With regard to other services, including extension education, recipients that are not now serving qualified handicapped persons because of the inaccessibility of their program must take steps to provide effective services to handicapped persons meeting valid requirements for program participation. Physical and mental abilities may be valid requirements for participation in certain types of programs and activities, as in the case of camps providing a wilderness

experience, or private school offering only a college preparatory program.

Section 15b.4 Discrimination prohibited.

Most commenters approved of the language in this section or suggested that it be strengthened. A few requested clarifications or pointed out perceived hardships as a result of requirements for site selections, communications, and the extent of covered benefits. This section is the heart of the Department's Section 504 regulations and as such describes prohibited actions in general terms. Thus, while health and life insurance benefits are not specifically named, they and other similar arrangements of recipients can be inferred from the language of §§ 15b.4(b)(1) and 15b.4(b)(4). Applications of the general prohibitions of this section to particular situations will be found in the remaining subparts of this regulation and in pertinent program guidelines.

Section 15b.5 Assurances required.

A few commenters expressed concern that unnecessary paperwork would be required by this section. The Department does not wish to impose unreasonable administrative burdens on recipients and therefore plans to consolidate all civil rights assurances, to incorporate these into standard forms, and to accept existing assurances whenever possible.

Section 15b.6 (formerly, § 15b.7) Designation of responsible employee and adoption of grievance procedures.

Section 15b.6(b) entitled "adoption of grievance procedures," has been revised slightly to conform to the comparable HHS and ED regulations.

The omission in the proposed regulation was inadvertent. A specific grievance procedure has not been provided to allow recipients the flexibility to develop a procedure appropriate to their programs. Grievance procedures required by other regulations will be acceptable as long as they comply with due process standards and provide for the prompt and equitable resolution of complaints.

Despite a comment that all recipients should be required to name a responsible employee and to adopt grievance procedures, the Department has retained the fifteen or more employees limitation as more reasonable. This section does not require that an additional employee be hired to coordinate compliance. Recipients may select a person who has other civil rights duties, the responsible person named in compliance with

another agency's Section 504 regulations, or any other person.

A new § 15b.6(c) (formerly, § 15b.9) has been added to make clear that the Secretary can require recipients having fewer than 15 employees to designate a responsible employee and adopt grievance procedures if the recipient has been found in noncompliance with these regulations or if the imposition of these administrative requirements will not impair the ability of the recipient to provide benefits or services.

Section 15b.7 Notice of nondiscrimination and accessible services.

This section has been renamed, "Notice of nondiscrimination and accessible services," to reflect the additional requirement that recipients inform interested persons of the existence and location of accessible services, activities, and facilities. This new requirement was previously expressed in § 15b.18(g). It is included here to simplify compliance by recipients.

Most commenters supported the requirement that all recipients give notice of nondiscrimination on the basis of handicap. The Department has adopted this policy, as opposed to the policy expressed in the HHS and ED section 504 regulations requiring only recipients employing 15 or more persons to give such notice, because it is more appropriate to our programs and recipients. Unlike the recipients affected by the HHS regulations, many of our recipients employ fewer than 15 persons. An exemption from notice requirements for such recipients could have a serious impact on the delivery of assisted services to handicapped persons. Since the regulation requires only that appropriate initial and continuing notification be made, without specifying the steps or forms of the notice, and since the nature of the recipient and the assisted program will be taken into account in evaluating compliance, the Department believes that even very small recipients can meet this requirement without impairing their ability to provide benefits and services.

In response to one comment, an example of nonprint communications media has been added to the list of acceptable methods. Another commenter suggested that appropriate notice be provided to persons with mental retardation, learning disability, or any other disability which may interfere with the communications process. While the Department recognizes the importance of reaching such persons, this suggestion has not been adopted because of the difficulty of

enforcement. In all cases, recipients are encouraged to coordinate their notice with other civil rights requirements.

Section 15b.8 (formerly, § 15b.6) Remedial action, voluntary action, and self-evaluation.

Many comments were submitted in regard to this section. As a result of one comment, § 15b.8(a)(3)(iii) has been added to permit the Secretary, where necessary to overcome the effects of discrimination in violation of section 504 or this part, to require remedial action on behalf of handicapped persons presently in the program but not receiving full benefits or equal and integrated treatment. Other comments on remedial actions questioned their necessity, legality, appropriateness without a review process, and their retroactive application. The Department believes that remedial action is an appropriate tool to overcome the effects of discrimination in violation of section 504 or this part. However, the Secretary may order remedial action only for violations which occur after the effective dates of section 504 and these implementing regulations. The enforcement procedures contained in Subpart G provide an adequate opportunity for a hearing.

The largest number of comments concerned the requirement for self-evaluation, its meaningfulness for small recipients, the implications of allowing flexibility in the process, the importance of involving handicapped persons, and the impact of requiring all recipients to maintain their self-evaluation for three years. No changes have been made to this subsection because the Department is convinced that the self-evaluation is a useful activity for all recipients. The requirement that all recipients retain their self-evaluation records for three years deviates from the HHS regulations which apply such a requirement only to recipients employing 15 or more persons. While a number of commenters objected to this record-keeping requirement, the Department remains convinced that the retention of the self-evaluation records does not, in itself, create an unreasonable burden that would interfere with the assisted programs of small recipients.

The actual content of the self-evaluation will vary considerably depending on the size and nature of the recipient and assisted program. Even the smallest recipients, however, will necessarily generate some written material as they solicit the advice of handicapped persons or organizations representing handicapped persons, review their policies and practices, make necessary modifications to their

policies and practices, and take appropriate remedial steps. More specific details on the elements of the self-evaluation have not been incorporated in order to allow the flexibility necessary for implementation by the wide range of recipients assisted by this Department. The involvement of handicapped persons in evaluating the accessibility of assisted programs and activities to qualified handicapped persons will greatly assist recipients in identifying the most effective and economical modifications to their programs. Where a recipient's program has been included in the self-evaluation of the programs of a parent institution or primary recipient, the self-evaluation requirement is met if all aspects of the recipient's program have been adequately evaluated and appropriate modifications and remedial steps have been implemented.

Section 15b.10 Effect of compliance with regulations of other Federal agencies.

The requirement for coordination with sections 502 and 503 of the Act has been deleted since it was directed toward Federal agencies and not recipients. In its place, the Department has inserted language on the effects of recipient compliance with regulations of other Federal agencies where such regulations overlap with the administrative requirements of these regulations. This has been done to emphasize that the Department does not wish to create unnecessary administrative burdens for recipients.

Section 15b.11 Interagency cooperation.

The language on interagency cooperation has been deleted because it required action by Federal agencies and is therefore not appropriate in a regulation intended for recipients. The Department is nevertheless committed to the principle of such cooperation.

Subpart B—Employment Practices

Several commenters objected to Subpart B's general prohibition of discrimination in recipient employment practices. They argued that section 504 should only apply to employment practices when employment is a primary objective of Federal financial assistance or when the recipient's employment discrimination results in discrimination against the ultimate beneficiaries of the program. In support, they cited the language and legislative history of section 504; the limited applicability of Title VI to employment situations; judicial interpretations of Title IX of the

Education Amendments of 1972; Section 120(a) of the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978; and finally, the decisions in *Trageser vs. Libbie Rehabilitation Center, Inc.*, 590 F.2d 87 (4th Cir. 1978), cert. denied, 442 U.S. 947 (1979) and *Carmi v. Metropolitan St. Louis Sewer District*, 620 F.2d 672 (8th Cir. 1980).

The Department has studied the arguments of these commenters and the recent decision in *U.S. v. Cabrini Medical Center*, — F.2d (2d Cir. 1981) but has determined that Subpart B must be retained in view of the legislative history of the Rehabilitation Act of 1973 and its amendments, including the legislative history of section 102(a) of the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978, the administrative construction of HHS and ED, and the remedial nature of section 504. However, *Trageser* is currently the law in Maryland, North Carolina, South Carolina, Virginia and West Virginia, the five states comprising the Fourth Circuit; *Carmi* is currently the law in Arkansas, Iowa, Minnesota, Missouri, Nebraska, North Dakota and South Dakota, the seven states comprising the Eighth Circuit; and *Cabrini* is currently the law in New York, Connecticut, and Vermont, the three states comprising the Second Circuit. Accordingly, pending further clarification of the law the provisions of this subpart will be enforced in the Second, Fourth and Eighth Circuit States only where employment is a primary objective of the Federal financial assistance or where discrimination against employees affects the ultimate beneficiaries of the assistance.

Section 15b.12 (formerly § 15b.13)
Discrimination prohibited.

Two changes have been made to this section. First, § 15b.13(a)(2) of the proposed regulations has been deleted. This paragraph required recipients that receive assistance under the Education of the Handicapped Act to take positive steps to employ and promote qualified handicapped persons in programs assisted under that Act. Since the Department does not administer programs under the Education of the Handicapped Act, the requirement is inappropriate for these regulations. Recipients of the Department who are also recipients of Education of the Handicapped Act assistance from an agency outside the Department will be subject to that agency's regulations.

The second change is the inclusion of volunteers in § 15b.12(a)(4). The

Department has added this language because it would be an anomalous result of the regulations to protect program beneficiaries and recipient employees from discrimination on the basis of handicap but not to protect qualified handicapped volunteers. Under the regulations, all provisions of Subpart B that apply to employees will apply equally to volunteers such as 4-H club leaders. This does not mean that the same procedures and benefits must be established for volunteers as for employees but that where comparable covered situations exist, discrimination is similarly prohibited. For example, recipients may not deny volunteer opportunities to classes of handicapped persons such as diabetics or refuse to provide reasonable accommodations to qualified handicapped volunteers unless such accommodations would impose an undue hardship on the operation of the program.

Section 15b.13 (formerly, § 15b.4)
Reasonable accommodation.

A number of comments were received on this section, most requesting more specific guidance on the meaning of the terms, "reasonable accommodation" and "undue hardship."

This section describes two general areas in which reasonable accommodations can be made, i.e., changes to the facility in which the handicapped person is employed and modifications to the handicapped employee's job or work environment. Within these two categories there are an indeterminable number of specific accommodations varying according to the purpose of the assisted program, nature and resources of the recipient, job requirements, handicapping condition, preferences of the handicapped person, and other factors.

While a list of possible accommodations could be constructed, the reasonableness of such accommodations could not be determined without considering the specific compliance situation. For example, the provision of deaf interpreters may be a reasonable accommodation for a recipient governmental entity but may constitute an undue hardship for an individual entrepreneur who is a recipient. Examples of percent budget expenditures for accommodations would be inappropriate for many recipients and would quickly become outdated. The Department does not, however, consider expenditure of more than a negligible amount to be, in itself, an undue hardship.

While the Department has not provided a listing of possible reasonable

accommodations, it is committed in its compliance procedures to provide assistance and guidance to recipients to help them comply voluntarily with the regulations in this part. In addition, recipients can obtain substantial assistance through consultation with handicapped persons during the self-evaluation process.

A new criterion, "the number of employees," has been added to the factors to be considered in judging whether an accommodation imposes an undue hardship on the operation of a recipient's program (§ 15b.13(c)). The Department believes that examination of the number of persons employed by a recipient is important in evaluating a recipient's ability to restructure jobs or work schedules.

Two commenters recommended that a handicapped person's ability to work safely be added to the factors for judging whether an accommodation would create an undue hardship. The Department gave serious consideration to this suggestion but decided that it was unnecessary since reasonable accommodations are only required for qualified handicapped persons. If safe procedures are essential to a job function, handicapped persons, like other applicants or employees, must meet valid safety standards in order to be considered qualified.

One commenter recommended that all deaf interpreters be required to meet certain standards of proficiency and ethical conduct. These regulations do not set such standards because of the diverse circumstances under which interpreters may be used and the availability of highly qualified interpreters. Nevertheless, recipients should be aware that the basic requirement of the regulation is to make assisted programs accessible to handicapped persons, and that the quality of interpreters provided has a direct effect on the ability of handicapped persons to participate fully in the recipient's program or to take advantage of employment opportunities.

Subpart C—Program Accessibility

Section 15b.18 Existing facilities.

The numerous comments received on this section reflect the public's great concern over the potential financial costs of making assisted programs accessible. The Department believes that many of these concerns are based on a misunderstanding of the requirements of the regulations. For those rare situations in which the achievement of program accessibility is infeasible, the Department, in certain

instances, has provided avenues for referrals or for modifications to the requirements of the regulations.

Section 15b.18(b) Methods.

This is a critical section of the regulations in that it specifies when structural alterations are required in existing facilities as opposed to less costly methods of making programs accessible. It cannot be emphasized too strongly that the purpose of this section is to make programs, not buildings accessible. Existing buildings or facilities must be made accessible only when program services cannot be adequately provided through any other method. Structural modifications are then only required to the extent necessary to deliver the program benefit. This concept is particularly important in situations where facilities have historical significance.

In choosing among nonstructural methods of making programs accessible, recipients must give priority to those methods which offer programs and activities to handicapped persons in the most integrated setting appropriate to obtain the full benefit of the program. The phrase, "to obtain the full benefit of the program," has been added in order to clarify the meaning of "most integrated setting appropriate."

To illustrate, State Departments of Social Services which contract with banks for the distribution of food stamps must ensure that handicapped persons have convenient access to food stamps. This does not mean that every bank must be accessible. Program accessibility can be accomplished by selecting enough accessible banks to give handicapped persons equivalent access to food stamps, by contracting with other accessible distributors, or by mailing or delivering stamps to handicapped beneficiaries. Since social interaction or a particular setting is not important to the distribution of food stamps, each of these alternatives would be acceptable. Recipients are encouraged, however, to provide services to handicapped persons in the same setting as is used to serve nonhandicapped persons.

On the other hand, a handicapped person could only enjoy the full benefits of a 4-H club program in an integrated setting. If the existing site of club meetings and activities is inaccessible, a recipient could make the program accessible by, among other methods, changing the site, providing aides, or making structural modifications to the existing site. Recent material on the subject of accessibility shows that such modifications can often be made at little cost.

One commenter asked whether facilities must be structurally changed for handicapped employees. Where employment is a primary objective of federal assistance, existing structures will have to be altered to make the program accessible to qualified handicapped participants unless the program can be made accessible through some other means. However, in all other programs assisted by this Department, a recipient need not make structural modifications for employees until a qualified handicapped employee is hired and the modifications are necessary as reasonable accommodations (§ 15b.13(b)). Recipients who foresee that the inaccessibility of their facility will exclude or discourage qualified handicapped employees are nevertheless encouraged to make such facilities accessible in advance of the employment of handicapped persons.

Section 15b.18(c) Small providers.

The term, "small providers," has been substituted for "small health, welfare, or social service providers," to more accurately reflect the broad range of recipients assisted by the Department of Agriculture. The referral option in this paragraph applies to all recipients including those operating educational programs, except where conflicting requirements of Subparts D, E, and F take precedence. Before referring a handicapped person to another provider, small recipients have the responsibility of ensuring that the other providers have accessible programs that will provide equivalent service to the handicapped person at no additional cost to the handicapped person.

Section 15b.18(d) Application for waiver of requirements

Many commenters requested some general relaxation of the strict requirement for program accessibility which might require alterations to existing facilities or the construction of new facilities. Some feared that they would be forced out of assisted programs because of their financial inability to make structural alterations or undertake new construction. Others pointed out that special problems are involved where facilities have historic significance.

Private schools, both church-related and independent, participate in the Department's school feeding programs. These recipients expressed concern over program accessibility requirements since many of their facilities are old and funds for renovation often limited. Unlike public schools, these private schools are generally not part of a school system in which some schools

could be made accessible to fulfill the requirement for program accessibility. Also, many private schools would be ineligible to make referrals under the small provider provision (§ 15b.18(c)) because they have more than 15 employees.

The Department was also advised that other private, nonprofit entities, such as camps and residential institutions for children and the elderly may encounter difficulty in achieving program accessibility. Like private schools, these entities are often small, without similar providers nearby for referrals, and lacking funds to make major alterations to facilities. Finally, the Department was made aware that recipients of special-use permits for land in national forests and recipients participating in forestry assistance programs on private lands may need to provide program accessibility in historic properties.

The Department remains convinced that accessibility problems can be resolved without imposing undue hardship on the operation of the recipient's program. Moreover, the rights of handicapped persons to accessibility are a much more compelling need than the temporary inconvenience that may result from the process of making programs accessible. Nonetheless, in rare instances where after completing a self-evaluation a recipient determines that program accessibility can only be accomplished through substantial modifications which would result in a fundamental alteration in the nature of the program, they may apply to the Secretary for a modification of the requirement.

Since substantial alterations to historic properties could negate the reasons for maintaining the property, the Department has added a provision allowing recipients to apply for a modification of the requirements of § 15.18.

Recipients may make such an application only after they have completed a self-evaluation which meets the requirements of § 15b.18(c) and which shows that the only method that can be used to make a program accessible is one which substantially impairs significant historic features of properties listed in the National Register of Historic Places. The Department believes that in most cases other effective methods will be identified during the self-evaluation process, especially if handicapped persons or organizations representing handicapped persons or organizations representing handicapped persons are properly involved. In addition, the Department

will provide necessary technical assistance to recipients who encounter special problems in achieving program accessibility.

Specific guidelines have been provided to assist recipients in making applications concerning properties listed in the National Register of Historic Places. The criteria have been recommended by the Advisory Council on Historic Preservation to eliminate any adverse effect of these regulations on properties that are included or that are eligible for inclusion in the National Register of Historic Places.

*Section 15b.18(f) (formerly, § 15b.18(d))
Time period.*

One commenter requested that the time period for complying with § 15b.18(a), except for structural changes, be extended to 180 days. Although the Department recognizes that 60 days may not be adequate time for recipients to relocate programs or take other nonstructural measures to make programs accessible, it has not changed the requirement. In cases where 60 days is not sufficient a recipient must take temporary measures such as making home visits or providing aides until permanent methods can be arranged. The purpose of the regulation is to ensure that handicapped persons are provided access to programs as soon as reasonably possible.

*Section 15b.18(g) (formerly, § 15b.18(e))
Transition plan.*

The time for completing transition plans has been changed from six months to one year to permit closer coordination of this activity with the self-evaluation process. The determination of necessary structural changes is a logical outgrowth of the recipient's analysis of total program accessibility and necessary program modifications. Since structural changes may take considerable time and since the three-year deadline for making alterations or constructing new facilities has not been changed, recipients should complete the transition plan as quickly as possible within the first year after the effective date of these regulations.

Transition plans prepared in compliance with regulations of other agencies may meet the requirements of § 15b.18(f). Similarly, the transition plan of a parent institution or prime recipient may satisfy requirements of § 15b.18(f) if all provisions of that section are met in regard to the recipient's program.

One commenter objected to this section on the basis that it required companies to involve noninterested outsiders in management decisions. The Department rejects this argument on two grounds. First, handicapped persons are

certainly interested in the continuing viability of recipient programs benefiting them. Second, although this section requires that recipients develop transition plans with the assistance of interested persons, including handicapped persons or organizations representing handicapped persons, final responsibility for the transition plan remains with recipients.

For specific information on physical barriers and appropriate modifications, recipients should consult the "American National Standard Specifications for Making Buildings and Facilities Accessible to, and Usable by the Physically Handicapped," published by the American National Standards Institute, Inc. (ANSI A117.1-1980). Former § 15b.18(f), "Notice," has been moved to § 15b.7. "Notice of nondiscrimination and accessible services," the general notice requirement for recipients.

Section 15b.19 New Construction

The standard which the Department will use for new construction and alterations is the "American National Standard Specifications for Making Buildings and Facilities Accessible to, and Usable by, the Physically Handicapped," published by the American National Standards Institute, Inc. (ANSI A117.1-1980). Approval to incorporate this standard by reference into 7 CFR Part 15b was granted by the Director of the Federal Register on June 8, 1981.

This standard, approved by the Institute on March 3, 1980, is currently the best nationally-recognized standard available for making facilities accessible to physically-handicapped persons. It is the result of years of research and the advice of experts representing handicapped persons, the building industry, manufacturers, service providers, local governments, and Federal agencies, including this Department. If, at some later date, the four agencies authorized by the Architectural Barriers Act of 1968, Public Law 90-480, to prescribe standards for federally funded facilities decides to issue a uniform accessibility standard for the Federal Government, the Department will make appropriate changes in the regulation to incorporate that uniform standard.

Some facilities subject to the ANSI A117.1-1980 standard under these regulations will also be subject to a standard issued by either the General Services Administration (GSA) or the Department of Housing and Urban Development (HUD), two of the four standard-setting agencies under the Architectural Barriers Act of 1968. Both

the GSA Accessibility Standard (45 FR 67664 (1980), 41 CFR Part 101-19 (1980)) and the HUD Standard (36 FR 24437 (1971), 24 CFR Part 40) are being revised to conform to the Minimum Guidelines and Requirements for Accessible Design (46 FR 4270 (1981), 36 CFR Part 1190) issued by the Architectural and Transportation Barriers Compliance Board (ATBCB), the agency responsible for enforcing the Architectural Barriers Act of 1968.

Recipients whose facilities are subject to both ANSI A117.1-1980 under these regulations and either the GSA or HUD standard can generally comply with both by following the stricter standard. For example, a facility can be designed with accessible walks having a clearance of 48 inches to meet the ANSI requirements (4.3.3) of a 36 inch minimum clearance and the GSA requirement (4.2.2) of a 48 inch minimum clearance. The Department plans to issue guidelines on how recipients can meet both the standard set by this regulation and the standard required under the Barriers Act. Recipients may depart from particular requirements of A117.1-1980 by adopting different requirements, such as those in the GSA or HUD standards, if equivalent accessibility is provided. In most cases, the Department will consider the requirements of the GSA and HUD standards as providing such equivalent accessibility.

Only a few comments were received on this section and these focused on two areas: Potential loopholes for structural accessibility and possible misinterpretations by recipients covered by the Architectural Barriers Act of 1968 as well as section 504. One commenter was concerned that alterations made accessible and usable only "to the maximum extent feasible," according to § 15b.19(b), could compromise program accessibility. The Department does not foresee this result since program accessibility must be achieved regardless of the accessibility of building alterations, except in those cases specifically referred to in § 15b.18(c), § 15b.18(d), and Subparts D, E, and F.

Another commenter recommended that § 15b.19(c) be revised to require that "equivalent usability" be added to "equivalent access" in determining when deviations from the ANSI Standards shall be permitted. The Department has not made this change but intends to consider usability as well as accessibility, as both criteria are considered in the ANSI Standards.

Another commenter requested that the provision in § 15b.19(c) allowing

departures from the ANSI Standard where equivalent access is provided be deleted to prevent confusion in situations where a facility is covered by both the Architectural Barriers Act of 1968, as amended, 42 U.S.C. 4151-4157, and section 504. Unlike the requirement of § 15b.19(c), regulations implementing the Architectural Barriers Act of 1968 permit departures from the required standard only after a formal waiver process. Despite this inconsistency, § 15b.19(c) has been retained to provide needed flexibility to recipients whose facilities are covered only by section 504.

A new section, § 15b.19(d), "Compliance with the Architectural Barriers Act of 1968," has been added to remind recipients that compliance with these regulations for program accessibility does not necessarily satisfy their responsibilities under the Architectural Barriers Act of 1968 as enforced by the Architectural and Transportation Barriers Compliance Board.

Subpart D—Preschool, Elementary, Secondary Adult and Extension Education

Two commenters recommended that Subpart D be deleted entirely as inappropriate for the Department of Agriculture's programs. This has not been done since the Department assists many education programs through grants, construction loans, revenues from national forest receipts, and feeding programs. Many of the recipients operating these programs are also recipients of assistance from the Department of Education. In order to simplify the compliance efforts of these recipients, the regulations of this subpart incorporate most of the language of the ED section 504 regulations (34 CFR 84.1-84.99 (1980)).

The title of this subpart has been revised to include adult and extension education. Adult education is already included in § 15b.20, "Applicability." Extension education is a major educational program assisted by the Department.

Section 15b.20 Applicability.

A separate reference to recipients has been deleted from this section to maintain consistency with § 15b.2, "Applicability." See the discussion of that section for an explanation of this change.

Extension education has been added to the list of program areas covered by this subpart.

Section 15b.22 Free appropriate public education.

One commenter recommended that § 15b.22(c)(2) be revised to require a recipient to provide transportation to handicapped persons participating in their programs as is required for handicapped persons placed in programs not operated by recipients. Under § 15b.22(c)(2), a recipient who places a handicapped person in a program which it does not operate, must assure that adequate transportation is provided at no greater cost than would be incurred if the handicapped person were placed in the recipient's program. The purpose of this regulation is to ensure that handicapped persons have equal access to education programs. The regulation does not imply an obligation for a recipient to establish transportation service to its own programs for either handicapped or nonhandicapped persons. However, if the recipient does provide transportation to its programs, that service must be equally accessible, in terms of convenience and cost, to both handicapped and nonhandicapped persons.

Section 15b.22(d) has been deleted as unnecessary. See ED's commentary to § 84.33(d) of its regulations (34 CFR Part 84, App.A (1980)). A new subparagraph has been added to inform recipients that they must be in compliance with this section by not later than September 1, 1982.

Section 15b.24 Evaluation and placement.

The Department received two comments concerning the title of § 15b.24(a), "Placement evaluation." The commenters were concerned that the use of "placement" instead of "preplacement" might imply that recipients could conduct evaluations of handicapped persons needing or believing to need special education or related services after an initial tentative placement. The Department does not intend this reading of the regulation and believes that the requirement for an evaluation to be completed before taking any action regarding initial placement or subsequent changes in placement is clear from the text of the subsection.

Section 15b.26 Nonacademic services.

Section 15b.26(d) Food services.

A number of comments suggested that the regulations should make more specific reference to Department programs, including school feeding programs. As a result, § 15b.26(d) has been added to address the most

commonly raised issues in school food services.

Section 15b.26(d)(1) requires recipients to serve special meals to handicapped persons whose handicap restricts their diet in such a way that they cannot fully participate in the recipient's meal program. It is the handicapped person's responsibility to inform the recipient of the need for special meals. Recipients may require medical certification that special meals are necessary on the basis of handicap, but are not required to do so by these regulations.

In providing special meals, recipients may not charge handicapped persons more than they would be charged for regular meals. For example, a handicapped person eligible for a free lunch could not be required to pay for a special meal.

Depending on the needs of individual handicapped persons, recipients may have to adjust food selections, portions, or methods of preparation. However, recipients are not obligated to establish new feeding programs for handicapped persons. For instance, a recipient operating a lunch program is not required to serve breakfast to handicapped persons.

Section 15b.26(d)(2) concerns the delivery of food services in existing facilities that are not completely accessible and usable. This section should be read in conjunction with § 15b.23(b), "Nonacademic setting," which requires that handicapped persons participate with nonhandicapped persons in meal services to the maximum extent appropriate to the needs of the handicapped person in question. This means that handicapped persons must be served in the same room or setting as nonhandicapped persons except where the needs of individual handicapped persons dictate that they be served in some other place or manner. Section 15b.26(d)(2) specifies that where serving lines, food dispensers, or furnishings in existing facilities are not completely accessible to and usable by handicapped persons, recipients may use aides, modifications to equipment, or other equally effective measures to provide food services to handicapped persons. The ultimate effect of such methods must be to provide handicapped persons with an opportunity to participate in the program that is equal to the opportunity which is available to nonhandicapped persons.

Section 15b.27 Extension education.

Many commenters advised the Department that Subparts D and E,

directed toward formal educational programs, were inadequate for cooperative extension education, an informal program with voluntary participants of wide-ranging ages and interests. The Department recognizes the special situations involved in the design of extension programs, the selection of delivery sites, and the development of program material, and consequently has added a new § 15b.27 to provide general guidance in these areas. This section is essentially an elaboration of § 15b.18(b) which explains options available to recipients for making programs accessible in existing facilities. Both § 15b.18(b) and § 15b.27 emphasize that program accessibility can often be achieved through methods other than building alterations or new construction and that structural modifications are, in fact, not required when other equally effective methods are available.

The first part of § 15b.27 is a general prohibition against discrimination and a requirement that the needs of qualified handicapped persons be taken into account in planning program activities. This parallels the proposed language for § 15b.27 which was directed toward preschool and adult education programs.

The second part of § 15b.27 discusses the specific accessibility problems of extension programs delivered at extension offices, at other publicly-owned facilities, at privately-owned facilities, and at camps. Where existing offices are inaccessible, program benefits may be delivered through other equally effective methods such as the use of alternate accessible locations, home visits, and written or telephonic communications. The key consideration is that these other methods must be equally effective.

To illustrate, a county agent's consultation with a mobility-impaired community leader could take place in that community leader's home or office rather than at the inaccessible office of the agent, provided that the agent's office was not essential to the consultation. If the community leader were named to an advisory board which regularly met in the agent's inaccessible office, provision would have to be made for the handicapped board member to participate in all board meetings. This could be accomplished by holding the meetings in other accessible locations, by relocating the county agent's office to an accessible facility, or by modifying the office. It would not be equally effective in this case for the county agent to meet individually with the handicapped board member since an

important aspect of the program is the interaction of the board members.

Where extension programs are delivered at publicly-owned facilities other than at recipient offices, these facilities must be accessible wherever possible. It is recognized that settings such as natural terrain cannot always be made accessible to handicapped persons. In these cases, recipients must use other equally effective methods to deliver the program benefits to qualified handicapped persons. These methods include redesigning the activity or some sessions of the activity. For example, recipients may continue to schedule nature walks in an undeveloped park, making accommodations for persons with visual, hearing, and limited mobility impairments, but would also have to arrange sessions in which comparable information is available to persons with severe mobility impairments through the use of lectures, visual aids, exhibits or other suitable techniques. Such alternate sessions cannot be limited only to handicapped persons.

Many extension activities take place in privately-owned delivery facilities which are often inaccessible. Such activities may continue in these facilities unless a handicapped person requiring accessibility is participating, has expressed an interest in participating, or is likely to participate. Thus, when a qualified handicapped person applies to join a homemakers group, the group must arrange to hold its meetings in an accessible place. Also, any of the group's activities which are open to the public and for which the accessibility requirements of those attending cannot be determined in advance will have to be conducted in accessible locations. Recipients should be aware that the Department intends to follow the HEW policy prohibiting the carrying of handicapped persons except as a temporary expedient when program accessibility can only be achieved through structural changes and in manifestly exceptional circumstances under controlled conditions (43 FR 36033, 36035 (1978)).

Camping programs, like other extension programs, must be accessible to qualified handicapped persons. This does not mean that every existing camp must be accessible but that the recipient's program as a whole must be accessible. If the camp that a handicapped person would normally attend is inaccessible, the recipient may assign that person to another accessible camp which it operates. In all camping activities, qualified handicapped persons must participate with

nonhandicapped persons to the extent appropriate to the needs of individual handicapped persons. Therefore, the recipient cannot limit qualified handicapped persons or any class of handicapped persons to one camp or camping session.

The third and final part of § 15b.27 requires that program materials be accessible to qualified handicapped persons with sensory or mental impairments. One commenter asked if all written materials provided through the extension education program would have to be put on tape. This is not the intent of the regulations. Accessibility to written materials can be achieved by having available Brailled or taped copies of the most commonly-requested publications and by providing other materials in alternate forms upon request. Volunteer services can frequently be obtained for Brailing, taping, and other accommodations for persons with impaired vision or hearing. For persons with mental impairments, simplified versions of program materials may be necessary.

Section 15b.28 Private education programs.

Several comments were submitted regarding the requirement that private schools operating special education programs adopt the guidelines for evaluation, placement and procedural safeguards outlined in §§ 15b.24 and 15b.25. The commenters felt that these guidelines, developed by ED primarily for public elementary and secondary schools, were too burdensome for private schools, most of whom participate only in the Department's school feeding programs.

The Department has examined this issue carefully and has noted the differences that exist between public and private schools in regard to student bodies, curriculums, educational innovations, teaching staffs, administration, and financial resources. Additionally, the Department has considered the protections against discrimination that exist in Subpart A, including the grievance procedure which must be established by most recipients. On the basis of these factors, the Department has revised § 15b.28 to make only §§ 15b.22(b)(1)(i), 15b.23, and 15b.26 applicable to private schools. The effect of these sections is to require private schools to provide qualified handicapped students an appropriate education, in an integrated setting for both academic and nonacademic activities. Private school recipients will not be held to the technical requirements for special education in

§§ 15b.24 and 15b.25. However, such recipients who operate special education programs may not discriminate against qualified handicapped persons in the administration of their special education programs.

Subpart E—Postsecondary Education

Few comments were received on this section and no significant changes have been made. Two commenters recommended that the subpart be deleted as inappropriate for the Department's programs. This has not been done since the Department assists many postsecondary education programs, including postsecondary vocational education programs, through grants to support education programs, grants and cooperative agreements to support research, and construction loans. Many of the recipients operating these programs are also recipients of assistance from the Department of Education. In order to simplify the compliance efforts of these recipients, the regulations of this subpart incorporate most of the language of the ED section 504 regulations (34 CFR 84.1-84.99 (1980)).

Section 15b.29 Applicability.

A separate reference to recipients has been deleted from this section to maintain consistency with § 15b.2, "Applicability." See the discussion of that section for an explanation of this modification.

Section 15b.30 Admissions and recruitment.

One commenter suggested that when recipients make preadmission inquiries, § 15b.30(c), they be required to make clear to the applicant, as opposed to merely stating clearly, the limitations on the recipient's request for information on the applicant's handicapped status. The Department believes that the conditions set out in § 15b.30(c) provide adequate and enforceable protections for handicapped applicants.

Section 15b.31 Treatment of students; general.

Section 15b.31(c) has been revised to include "course" in addition to "course of study" among the aspects of a recipient's education program or activity from which a qualified handicapped person may not be excluded. This language was inadvertently omitted from the Department's proposed regulations.

Section 15b.32 Academic adjustments.

One commenter recommended that § 15b.32(d)(2) be amended to explicitly

require recipients to provide interpreters to hearing-impaired students when materials are delivered orally. This would enable hearing-impaired students to understand the lecture and participate in any discussion. The recommended amendment has not been adopted since not all orally-delivered information involves discussion. Recipients are, however, required by §§ 15b.4(b)(1)(ii) and 15b.32(d)(i) to provide those auxiliary aids necessary to give qualified handicapped persons an equal opportunity to participate in their programs. If educational materials are delivered orally and discussed, hearing-impaired students must be provided those auxiliary aids that will allow them to participate fully and effectively in this activity.

Subpart F—Other Programs and Activities

Subpart F supplements Subparts A, B and C with specific requirements for some programs of the Department which are not covered by Subparts D and E. Few comments were received on this subpart and, with the exception of adding sections on food services and multi-family rental housing, only minor modifications have been made.

The title of the subpart has been changed from "Health, Welfare, Social and Other Services" to "Other Programs and Activities." This has been done to reflect the broad range of programs assisted by this Department.

Section 15b.36 Applicability.

A separate reference to recipients has been deleted from this section to maintain consistency with § 15b.2. An explanation of this change can be found in the discussion of that section.

Section 15b.37 (formerly, § 15b.37(d)) Auxiliary aids.

Several comments were received on the determination of appropriate auxiliary aids. It is the recipient's responsibility to make this determination after considering the nature of the program, the information being communicated or service being provided, and the needs of handicapped persons. Recipients are encouraged to consult with handicapped persons to learn which types of auxiliary aids are preferred.

Section 15b.40 Food Services.

Section 15b.40, "Food services," which is patterned after § 15b.26(d) has been added to clarify responsibilities of recipients operating assisted food service programs in institutions not covered by Subpart D.

Section 15b.41 Multi-family rental housing.

A new § 15b.41, "Multi-family rental housing," has been added to this subpart in response to the particular accessibility issues associated with this program. Issues not addressed in this section are, of course, covered by Subparts A, B, and C.

Section 15b.41(a) is a general prohibition of discrimination on the basis of handicap against qualified handicapped persons as defined in Subpart A.

Section 15b.41(b) outlines general requirements for making new multi-family rental housing projects structurally accessible to qualified handicapped persons. These requirements apply only to recipients that have entered into an agreement of assistance with the Department after the effective date of the regulations.

In setting these limits, the Department considered carefully the number of multi-family rental housing projects assisted between the effective dates of section 504 and these regulations, the housing needs of handicapped persons, the costs involved in retrofitting existing housing projects and the number of projects already covered by other accessibility standards. The Department concluded that application of the accessibility requirements of this section to existing projects could not be justified in light of previous agreements between the Department and recipients and would likely result in recipients assuming additional debt that would be passed on to tenants in the form of higher rents. Additionally, the Department determined that many existing multi-family housing projects are already at least minimally accessible due to standards prescribed by other regulations. A new subsection (c), discussed below, has been added to clarify program accessibility requirements for existing facilities.

The Department will consider adaptable as well as fully accessible units as meeting the requirements of this section. An adaptable unit is one which is basically accessible in terms of entry and circulation and which has been constructed to permit recipients to easily install grab bars, modify kitchen facilities, and make other standard adaptations at the time that a handicapped person needing these adaptations would rent the unit. In contrast, an accessible unit would be constructed with all accessibility features in place. One advantage of adaptable units is that they can be more easily rented to nonhandicapped person.

Another is that handicapped persons will be able to have installed only those accessibility features which they need and in the positions which will be most helpful to them.

The minimum number of accessible or adaptable units per housing project has been set at five percent or at least one unit, whichever is greater. This measure of accessibility is based on available data on the number of handicapped persons needing such housing nationwide, and the fact that many rental housing projects assisted by the Department have fewer than 20 units.

Because many of these housing programs are located in small rural communities where populations may differ from national averages, some flexibility has been built into the accessibility requirement by allowing a different percentage of accessible units where a market survey approved by the Department indicates that this would be more appropriate for a particular program and its service area.

As for the rental housing units themselves, they must be comparable in variety to other units in the project, must be rented at the same rates as other comparable units, and cannot be clustered at one site if the program encompasses more than one site. This means, for example, that a multi-family housing program consisting of 40 units, 20 each at two sites and divided equally between one and two-bedroom units, would have at least two accessible or adaptable units, one at each site, and one each of the one and two-bedroom styles.

Section 15b.41(c) outlines general requirements for making existing multi-family rental housing projects accessible to qualified handicapped persons. These requirements apply only to recipients that have entered into an agreement of assistance with the Department prior to the effective date of the regulations. In such situations, recipients must assure program accessibility in their projects. See § 15b.18 of the regulations and the appropriate part of this "Supplementary Information" for a discussion of program accessibility requirements. Efforts to provide program accessibility in existing facilities should begin when a qualified handicapped person applies for admission. Physical alterations to existing facilities to make them accessible must be completed within a reasonable amount of time after the unit becomes available for occupancy. Under normal circumstances, it is expected that the unit will be altered to meet accessibility requirements within 30 days of the time the unit becomes ready for occupancy.

The section also contains information on how the Department will help recipients to comply with program accessibility requirements. In general, the Department will consider applications by the recipient for subsequent loans to make existing facilities accessible or to construct additional accessible units. The Department will also consider requests to use the housing project's reserve fund account for making minor modifications to existing facilities in order to make them accessible.

Subpart G—Procedures

No substantive changes have been made to this subpart.

List of Subjects in 7 CFR Part 15b

Administrative practice and procedure, Civil rights, Handicapped.

For the reasons given above, Part 15b is added to Title 7 of the Code of Federal Regulations as set forth below.

Dated: June 3, 1982.

John R. Block,
Secretary.

Title 7 of the Code of Federal Regulations is amended by adding a new Part 15b as follows:

PART 15b—NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS AND ACTIVITIES RECEIVING OR BENEFITING FROM FEDERAL FINANCIAL ASSISTANCE

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Subpart B—Employment Practices

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Subpart D—Preschool, Elementary, Secondary, Adult, and Extension Education

- 15b.20 Applicability
- 15b.21 Location and notification.
- 15b.22 Free appropriate public education.
- 15b.23 Educational setting.
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- 15b.27 Extension education.
- 15b.28 Private education programs.

Subpart E—Postsecondary Education

- 15b.29 Applicability.
- 15b.30 Admissions and recruitment.
- 15b.31 Treatment of students.
- 15b.32 Academic adjustments.
- 15b.33 Housing.
- 15b.34 Financial and employment assistance to students.
- 15b.35 Nonacademic services.

Subpart F—Other Programs and Activities

- 15b.36 Applicability.
- 15b.37 Auxiliary aids.
- 15b.38 Health care facilities.
- 15b.39 Education of institutionalized persons.
- 15b.40 Food services.
- 15b.41 Multi-family rental housing.

Subpart G—Procedures

- 15b.42 Procedures.
- Appendix A—List of USDA-Assisted Programs.

Authority: Sec. 504, Rehabilitation Act of 1973, Pub. L. 93-112, 87 Stat. 394 (29 U.S.C. 794); sec. 111(a), Rehabilitation Act of 1974, Pub. L. 93-516, 88 Stat. 1619 (29 U.S.C. 706); sec. 120(a), Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978, Pub. L. 95-602, 92 Stat. 2955 (1978); Executive Order 12250, November 2, 1980, and 45 CFR Part 85.

Subpart A—General Provisions

§ 15b.1 Purpose.

The purpose of this part is to implement section 504 of the Rehabilitation Act of 1973, as amended, to the end that no otherwise qualified handicapped individual in the United States shall solely by reason of his or her handicap be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

§ 15b.2 Applicability.

This part applies to all programs and activities that receive or benefit from Federal financial assistance extended by the Department of Agriculture after the effective date of this part whether or not the assistance was approved after the effective date. Subparts A, B, and C are of general applicability. Subparts D, E, and F are tailored to specific programs. Subpart G is procedural.

§ 15b.3 Definitions.

As used in this part, the term or phrase:

(a) "The Act" means the Rehabilitation Act of 1973, Pub. L. 93-112, 87 Stat. 390 (1973), as amended by the Rehabilitation Act Amendments of 1974, Pub. L. 93-651, 89 Stat. 2 (1974) and Pub. L. 93-516, 88 Stat. 1617 (1974) and the Rehabilitation, Comprehensive Services and Developmental Disabilities Amendments of 1978, Pub. L. 95-602, 92 Stat. 2955 (1978). The Act appears at 29 U.S.C. 701-794.

(b) "Section 504" means section 504 of the Act, 29 U.S.C. 794.

(c) "Education of the Handicapped Act" means the Education of the Handicapped Act, Pub. L. 92-230, Title VI, 84 Stat. 175 (1970), as amended by the Education of the Handicapped Amendments of 1974, Pub. L. 93-380, Title VI, 88 Stat. 576 (1974), the Education for All Handicapped Children Act of 1975, Pub. L. 94-142, 89 Stat. 773 (1975), and the Education of the Handicapped Amendments of 1977, Pub. L. 95-49, 91 Stat. 230 (1977). The Education of the Handicapped Act appears at 20 U.S.C. 1401-1461.

(d) "Department" means the Department of Agriculture and includes each of its operating agencies and other organizational units.

(e) "Secretary" means the Secretary of Agriculture or any officer or employee of the Department to whom the Secretary has delegated or may delegate the authority to act under the regulations of this part.

(f) "Recipient" means any State or its political subdivision, any instrumentality of a State or its political subdivision, any public or private agency, institution, organization, or other entity, or any person to which Federal financial assistance is extended directly or through another recipient, including any successor, assignee, or transferee of a recipient, but excluding the ultimate beneficiary of the assistance.

(g) "Federal financial assistance" or "assistance" means any grant, contract (other than a procurement contract or a contract of insurance or guaranty), cooperative agreement, formula allocation, loan, or any other arrangement by which the Department provides or otherwise makes available assistance in the form of:

- (1) Funds;
- (2) Services of Federal personnel;
- (3) Real and personal Federal property or any interest in Federal property, including:

(i) A sale, transfer, lease or use (on other than a casual or transient basis) of Federal property for less than fair

market value, for reduced consideration or in recognition of the public nature of the recipient's program or activity; and

(ii) Proceeds from a subsequent sale, transfer or lease of Federal property if the Federal share of its fair market value is not returned to the Federal Government.

(4) Any other thing of value.

(h) "Facility" means all or any portion of buildings, structures, equipment, roads, walks, parking lots, or other real or personal property or interest in such property.

(i) "Handicapped person" means any person who has a physical or mental impairment which substantially limits one or more major life activities, has a record of such an impairment, or is regarded as having such an impairment.

(j) "Physical or mental impairment" means (1) any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems:

Neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; and endocrine; or (2) any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term "physical or mental impairment" includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech, and hearing impairments; cerebral palsy; epilepsy; muscular dystrophy; multiple sclerosis; cancer; heart disease; diabetes; mental retardation; emotional illness; and drug addiction and alcoholism.

(k) "Major life activities" means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.

(l) "Has a record of such an impairment" means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

(m) "Is regarded as having an impairment" means (1) has a physical or mental impairment that does not substantially limit major life activities but that is treated by a recipient as constituting such a limitation; (2) has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others towards such impairments, or (3) has none of the impairments defined in paragraph (j) of this section but is treated by a recipient as having such an impairment.

(n) "Qualified handicapped person" (used synonymously with "otherwise qualified handicapped individual") means:

(1) With respect to employment, a handicapped person who, with reasonable accommodation, can perform the essential functions of the job in question, but the term does not include any individual who is an alcoholic or drug abuser whose current use of alcohol or drugs prevents such individual from performing the duties of the job in question or whose employment, by reason of such current alcohol or drug abuse, would constitute a direct threat to property or the safety of others;

(2) With respect to public preschool, elementary, secondary, or adult educational services, a handicapped person, (i) of an age during which non-handicapped persons are provided such services, (ii) of an age during which it is mandatory under State law to provide such services to handicapped persons, or (iii) to whom a State is required to provide a free appropriate public education under Section 612 of the Education of the Handicapped Act; and

(3) With respect to postsecondary and vocational education services, a handicapped person who meets all academic and technical standards requisite to admission or participation in the recipient's education program or activity;

(4) With respect to other services, a handicapped person who meets the essential eligibility requirements for the receipt of such services.

(o) "Handicap" means any condition or characteristic that renders a person a handicapped person as defined in paragraph (i) of this section.

(p) For purposes of § 15b.18(d), "Historic preservation programs" means programs receiving Federal financial assistance that has preservation of historic properties as a primary purpose.

(q) For purposes of § 15b.18(d), "Historic properties" means those properties that are listed or eligible for listing in the National Register of Historic Places.

(r) For purposes of § 15b.18(d), "Substantial impairment" means a significant loss of the integrity of finished materials, design quality or special character which loss results from a permanent alteration.

§ 15b.4 Discrimination prohibited.

(a) *General.* No qualified handicapped person shall, on the basis of handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any

program or activity receiving assistance from this Department.

(b) *Discriminatory actions prohibited.*

(1) A recipient, in providing any aid, benefit or service, may not, directly or through contractual, licensing, or other arrangements, on the basis of handicap:

(i) Deny a qualified handicapped person the opportunity to participate in or benefit from the aid, benefit or services;

(ii) Afford a qualified handicapped person an opportunity to participate in or benefit from the aid, benefit or services that is not equal to that afforded others;

(iii) Provide a qualified handicapped person with an aid, benefit or service that is not as effective in affording equal opportunity to obtain the same result, to gain the same benefit or to reach the same level of achievement in the most integrated setting appropriate as that provided to others;

(iv) Provide a different or separate aid, benefit or service to handicapped persons or to any class of handicapped persons unless such action is necessary to provide qualified handicapped persons with an aid, benefit or service that are as effective as those provided to others;

(v) Aid or perpetuate discrimination against a qualified handicapped person by providing significant assistance to an agency, organization, or person that discriminates on the basis of handicap in providing any aid, benefit or service to beneficiaries of the recipient's program;

(vi) Deny a qualified handicapped person the opportunity to participate as a member of planning or advisory boards; or

(vii) Otherwise limit a qualified handicapped person in the enjoyment of any rights, privilege, advantage, or opportunity enjoyed by others receiving an aid, benefit or service.

(2) For purposes of this part, aids, benefits and services, to be equally effective, are not required to produce the identical result or level of achievement for handicapped and nonhandicapped persons, but must afford handicapped persons equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement, in the most integrated setting appropriate to the person's needs.

(3) Despite the existence of separate or different programs or activities provided in accordance with this part, a recipient may not deny a qualified handicapped person the opportunity to participate in such programs or activities that are not separate or different.

(4) A recipient may not, directly or through contractual or other arrangements, utilize criteria or methods of administration (i) that have the effect of subjecting qualified handicapped persons to discrimination on the basis of handicap, (ii) that have the purpose or effect of defeating or substantially impairing accomplishment of the objectives of the recipient's program with respect to handicapped persons, or (iii) that perpetuate the discrimination of another recipient if both recipients are subject to common administrative control or are agencies of the same State.

(5) In determining the site or location of a facility, an applicant for assistance or a recipient may not make selections (i) that have the effect of excluding handicapped persons, from denying them the benefits of, or otherwise subjecting them to discrimination under any program or activity that receives or benefits from Federal financial assistance or (ii) that have the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the program or activity with respect to handicapped persons.

(6) As used in this section, an aid, benefit or service provided under a program or activity receiving or benefiting from Federal financial assistance includes any aid, benefit or service provided in or through a facility that has been constructed, expanded, altered, leased or rented, or otherwise acquired, in whole or in part, with Federal financial assistance.

(c) *Programs limited by Federal law.* The exclusion of nonhandicapped persons from the benefits of a program limited by Federal statute or executive order to handicapped persons or the exclusion of a specific class of handicapped persons from a program limited by Federal statute or executive order to a different class of handicapped persons is not prohibited by this part.

(d) *Communications.* Recipients shall take appropriate steps to ensure that communications with their applicants, employees, and beneficiaries are available to persons with impaired vision and hearing.

§ 15b.5 Assurances required.

(a) *Assurances.* An applicant for Federal financial assistance for a program or activity to which this part applies shall submit an assurance, on a form specified by the Secretary, that the program will be operated in compliance with this part. An applicant may incorporate these assurances by reference in subsequent applications to the Department.

(b) *Duration of obligation.* (1) In the case of Federal financial assistance extended in the form of real property or to provide real property or structures on the property, the assurance will obligate the recipient, or, in the case of a subsequent transfer, the transferee, for the period during which the real property or structures are used for the purpose for which Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits.

(2) In the case of Federal financial assistance extended to provide personal property, the assurance will obligate the recipient for the period during which it retains ownership or possession of the property.

(3) In all other cases, the assurance will obligate the recipient for the period during which Federal financial assistance is extended.

(c) *Covenants.* (1) Where Federal financial assistance is provided in the form of real property or interest in the property from the Department, the instrument effecting or recording this transfer shall contain a covenant running with the land to assure nondiscrimination for the period during which the real property is used for the purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits.

(2) Where no transfer of property is involved but property is purchased or improved with Federal financial assistance, the recipient shall agree to include the covenant described in paragraph (c)(1) of this section in the instrument effecting or recording any subsequent transfer of the property.

(3) Where Federal financial assistance is provided in the form of real property or interest in the property from the Department, the covenant shall also include a condition coupled with a right to be reserved by the Department to revert title to the property in the event of a breach of the covenant. If a transferee of real property proposes to mortgage or otherwise encumber the real property as security for financing construction of new, or improvement of existing, facilities on the property for the purposes for which the property was transferred, the Secretary may, upon request of the transferee and if necessary to accomplish such financing and upon such conditions as the Secretary deems appropriate, agree to forebear the exercise of such right to revert title for so long as the lien of such mortgage or other encumbrance remains effective.

§ 15b.6 Designation of responsible employee and adoption of grievance procedures.

(a) *Designation of responsible employee.* A recipient that employs fifteen or more persons shall designate at least one person to coordinate its efforts to comply with this part.

(b) *Adoption of grievance procedures.* A recipient that employs fifteen or more persons shall adopt grievance procedures that incorporate appropriate due process standards and that provide for the prompt and equitable resolution of complaints alleging any action, prohibited by this part. Such procedures need not be established with respect to complaints from applicants for employment or from applicants for admission to postsecondary educational institutions.

(c) The Secretary may require any recipient with fewer than fifteen employees to designate a responsible employee and adopt grievance procedures when the Secretary finds a violation of this part or finds that complying with these administrative requirements will not significantly impair the ability of the recipient to provide benefits or services.

§ 15b.7 Notice of nondiscrimination and accessible services.

(a) A recipient shall take appropriate initial and continuing steps to notify participants, beneficiaries, applicants, and employees, including those with impaired vision or hearing, and unions or professional organizations holding collective bargaining or professional agreements with the recipient that it does not discriminate on the basis of handicap in violation of section 504 and this part. The notification shall state, where appropriate, that the recipient does not discriminate in admission or access to, or treatment or employment in, its programs and activities. The recipient shall also identify the responsible employee designated pursuant to § 15b.6(a), and identify the existence and location of accessible services, activities, and facilities. A recipient shall make the initial notification required by this paragraph within 90 days of the effective date of this part. Methods of initial and continuing notification may include but are not limited to the posting of notices, placement of notices in the recipient's publications, radio announcements, and the use of other visual and aural media.

(b) If a recipient publishes or uses recruitment materials or publications containing general information that it makes available to participants, beneficiaries, applicants or employees, it shall include in those materials or

publications a statement of the policy described in paragraph (a) of this section. A recipient may meet the requirement of this paragraph either by including appropriate inserts in existing materials and publications or by revising and reprinting the materials and publications.

§ 15b.8 Remedial action, voluntary action, and self-evaluation.

(a) *Remedial action.* (1) If the Secretary finds that a recipient has discriminated against persons on the basis of handicap in violation of Section 504 or this part, the recipient shall take such remedial action as the Secretary deems necessary to overcome the effects of the discrimination.

(2) Where a recipient is found to have discriminated against persons on the basis of handicap in violation of Section 504 or this part and where another recipient exercises control over the recipient that has discriminated, the Secretary, where appropriate, may require either or both recipients to take remedial action.

(3) The Secretary may, where necessary to overcome the effects of discrimination in violation of section 504 or this part, require a recipient to take remedial action (i) with respect to handicapped persons who are no longer participants in the recipient's program but who were participants in the program when such discrimination occurred or (ii) with respect to handicapped persons who would have been participants in the program had the discrimination not occurred, or (iii) with respect to handicapped persons presently in the program, but not receiving full benefits or equal and integrated treatment within the program.

(b) *Voluntary action.* A recipient may take steps, in addition to any action that is required by this part, to overcome the effects of conditions that resulted in limited participation in the recipient's program or activity by qualified handicapped persons.

(c) *Self-evaluation.* (1) A recipient shall, within one year of the effective date of this part:

(i) Evaluate, with the assistance of interested persons, including handicapped persons or organizations representing handicapped persons, its current policies and practices and the effects thereof that do not or may not meet the requirements of this part.

(ii) Modify, after consultation with interested persons, including handicapped persons or organizations representing handicapped persons, any policies and practices that do not meet the requirements of this part; and

(iii) Take, after consultation with interested persons, including handicapped persons or organizations representing handicapped persons, appropriate remedial steps to eliminate the effects of any discrimination that resulted from adherence to these policies and practices.

(2) A recipient shall, for at least three years following completion of the evaluation required under paragraph (c)(1) of this section, maintain on file, make available for public inspection, and provide to the Secretary upon request: (i) A list of the interested persons consulted, (ii) a description of areas examined and any problems identified, and (iii) a description of any modifications made and of any remedial steps taken.

§ 15b.9 Effect of State or local law or other requirements, and effect of employment opportunities.

(a) The obligation to comply with this part is not obviated or alleviated by the existence of any State or local law or other requirement that, on the basis of handicap, imposes prohibitions or limits upon the eligibility of qualified handicapped persons to receive services or to practice any occupation or profession.

(b) The obligation to comply with this part is not obviated or alleviated because employment opportunities in any occupation or profession are or may be more limited for handicapped persons than for nonhandicapped persons.

§ 15b.10 Effect of compliance with regulations or other Federal agencies.

A recipient that has designated a responsible official and established a grievance procedure, provided notice, completed a self-evaluation, or prepared a transition plan in the course of complying with regulations issued by other Federal agencies under section 504 will be in compliance with § 15b.6, 15b.7, 15b.8(c), or 15b.18(f), respectively, if all requirements of those sections have been met in regard to programs assisted by this Department.

Subpart B—Employment Practices

§ 15b.11 Applicability.

This subpart applies to all programs and activities that receive or benefit from Federal financial assistance provided by the Department of Agriculture after the effective date of this part.

§ 15b.12 Discrimination prohibited.

(a) *General.* (1) No qualified handicapped person shall, on the basis

of handicapped, be subjected to discrimination in employment under any program or activity receiving assistance from this Department.

(2) A recipient shall make all decisions concerning employment in a manner which ensures that discrimination on the basis of handicap does not occur and may not limit, segregate, or classify applicants or employees in any way that adversely affects their opportunities or status because of handicap.

(3) A recipient may not participate in a contractual or other relationship that has the effect of subjecting qualified handicapped applicants or employees to discrimination prohibited by this subpart. This includes relationships with employment and referral agencies, with labor unions with organizations providing or administering fringe benefits to employees of the recipient, and with organizations providing training and apprenticeship programs.

(4) All provisions of this subpart pertaining to employment, apply equally to volunteer service.

(b) *Specific activities.* The provisions of this subpart apply to:

(1) Recruitment, advertising, and the processing of applications for employment;

(2) Hiring, upgrading, promotion, award of tenure, demotion, transfer, layoff, termination, right to return from layoff, and rehiring;

(3) Rates of pay or any other form of compensation and changes in compensation;

(4) Job assignments, job classifications, organizational structures, position descriptions, lines of progression, and seniority lists;

(5) Leaves of absence, sick leave, or any other leave;

(6) Fringe benefits available by virtue of employment, whether or not administered by the recipient;

(7) Selection and financial support for training, including apprenticeship, professional meetings, conferences, and other related activities, and selection for leaves of absence to pursue training;

(8) Employer sponsored activities, including social or recreational programs; and

(9) Any other term, condition, or privilege of employment.

(c) A recipient's obligation to comply with this subpart is not affected by any inconsistent term of any collective bargaining agreement to which it is a party.

§ 15b.13 Reasonable accommodation.

(A) A recipient shall make reasonable accommodation to the known physical or mental limitations of an otherwise

qualified handicapped applicant or employee unless the recipient can demonstrate that the accommodation would impose an undue hardship on the operation of its program.

(b) Reasonable accommodation may include: (1) Making facilities used by employees readily accessible to and useable by handicapped persons, and

(2) Job restructuring, part-time or modified work schedules, acquisition or modification of equipment or devices, the provisions of readers or interpreters, and other similar actions.

(c) In determining pursuant to paragraph (a) of this section whether an accommodation would impose an undue hardship on the operation of a recipient's programs, factors to be considered include:

(1) The overall size of the recipient's program with respect to number of employees, number and type of facilities, and size of budget;

(2) The type of the recipient's operation, including the composition and structure of recipient's workforce;

(3) The nature and cost of the accommodation needed.

(d) A recipient may not deny any employment opportunity to a qualified handicapped employee or applicant if the basis for the denial is the need to make reasonable accommodation to the physical or mental limitations of the employee or applicant.

§ 15b.14 Employment criteria.

(a) A recipient may not make use of any employment test or other selection criterion that screens out or tends to screen out handicapped persons or any class of handicapped persons unless:

(1) The recipient shows that the test score or other selection criterion, as used by the recipient, is job-related for the position in question, and (2) the Secretary cannot show that alternative job-related tests or criteria are available that do not screen out or tend to screen out as many handicapped persons.

(b) A recipient shall select and administer tests concerning employment so as best to ensure that, when administered to an applicant or employee who has a handicap that impairs sensory, manual, or speaking skills, the test results accurately reflect the applicant's or employee's job skills, aptitude, or whatever other factor the test purports to measure, rather than reflecting the applicant's or employee's impaired sensory, manual, or speaking skills (except where those skills are the factors that the test purports to measure).

§ 15b.15 Preemployment inquiries.

(a) Except as provided in paragraphs (b) and (c) of this section, a recipient may not conduct a preemployment medical examination or may not make preemployment inquiry of an applicant as to whether the applicant is a handicapped person or as to the nature or severity of a handicap. A recipient may, however, make preemployment inquiry into an applicant's ability to perform job-related functions.

(b) When a recipient is taking remedial action to correct the effects of past discrimination pursuant to § 15b.8(a), when a recipient is taking voluntary action to overcome the effects of conditions that resulted in limited participation in its federally assisted program or activity pursuant to § 15b.8(b), or when a recipient is taking affirmative action pursuant to section 503 of the Act, the recipient may invite applicants for employment to indicate whether and to what extent they are handicapped: *Provided*, That (1) the recipient states clearly on any written questionnaire used for this purpose or makes clear orally if no written questionnaire is used that the information requested is intended for use solely in connection with its remedial action obligations or its voluntary affirmative action efforts; and (2) the recipient states clearly that the information is being requested on a voluntary basis, that it will be kept confidential as provided in paragraph (d) of this section, that refusal to provide it will not subject the applicant or employee to any adverse treatment, and that it will be used only in accordance with this part.

(c) Nothing in this section shall prohibit a recipient for conditioning an offer of employment on the results of a medical examination conducted prior to the employee's entrance on duty: *Provided*, That (1) all entering employees are subjected to such an examination regardless of handicap; and (2) the results of such an examination are used only in accordance with the requirements of this part.

(d) Information obtained in accordance with this section as to the medical condition or history of the applicant shall be collected and maintained on separate forms that shall be accorded the same confidentiality as medical records except that:

(1) Supervisors and managers may be informed regarding restrictions on the work or duties of handicapped persons and regarding necessary accommodations;

(2) First aid and safety personnel may be informed, where appropriate, if the

condition might require emergency treatment; and

(3) Government officials investigating compliance with the Act shall be provided relevant information upon request.

Subpart C—Program Accessibility

§ 15b.16 Applicability.

This subpart applies to all programs and activities that receive or benefit from Federal financial assistance provided by the Department of Agriculture after the effective date of this part.

§ 15b.17 Discrimination prohibited.

No qualified handicapped person shall, because a recipient's facilities are inaccessible to or unusable by handicapped persons, be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination under any program or activity receiving assistance from this Department.

§ 15b.18 Existing facilities.

(a) *Program accessibility.* A recipient shall operate each assisted program or activity so that the program or activity, when viewed in its entirety, is readily accessible to and usable by qualified handicapped persons. This paragraph does not necessarily require a recipient to make each of its existing facilities or every part of an existing facility accessible to and usable by qualified handicapped persons.

(b) *Method.* A recipient may comply with the requirements of paragraph (a) of this section through such means as redesign of equipment, reassignment of classes or other services to accessible buildings, assignment of aides to beneficiaries, home visits, delivery of services at alternate accessible sites, alteration of existing facilities and construction of new facilities in conformance with the requirements of § 15b.19, or any other method that results in making its program or activity accessible to qualified handicapped persons. A recipient is not required to make structural changes in existing facilities where other methods are effective in achieving compliance with paragraph (a) of this section. In choosing among available methods for meeting the requirement of paragraph (a) of this section, a recipient shall give priority to those methods that offer programs and activities to qualified handicapped persons in the most integrated setting appropriate to obtain the full benefits of the program.

(c) *Small providers.* If a recipient with fewer than fifteen employees finds, after

consultation with a handicapped person seeking its services, that there is no method of complying with paragraph (a) of this section other than by making a significant alteration in its existing facilities, the recipient may, as an alternative, refer the handicapped person to other providers of those services that are accessible at no additional cost to handicapped persons.

(d) *Application for modification of requirements.* Recipients that determine after a self-evaluation conducted according to the requirements of § 15b.8(c), that program accessibility can only be accomplished through substantial modifications which would result in a fundamental alteration in the nature of the program, may apply to the Secretary for a modification of the requirements of this section.

(e) *Historic preservation programs.* Application for waiver of program accessibility requirements. (1) In the case of historic preservation programs, program accessibility means that, when viewed in its entirety, a program is readily accessible to and usable by handicapped persons. This paragraph does not necessarily require a recipient to make each of its existing historic properties or every part of an historic property accessible to and usable by handicapped persons. Methods of achieving program accessibility include:

(i) Making physical alterations which enable handicapped persons to have access to otherwise inaccessible areas or features of historic properties;

(ii) Using audio-visual materials and devices to depict otherwise inaccessible areas or features of historic properties;

(iii) Assigning persons to guide handicapped persons into or through otherwise inaccessible portions of historic properties;

(iv) Adopting other innovative methods to achieve program accessibility. Because the primary benefit of an historic preservation program is the experience of the historic property itself, in taking steps to achieve program accessibility, recipients shall give priority to those means which make the historic property, or portions thereof physically accessible to handicapped individuals.

(2) Where program accessibility cannot be achieved without causing a substantial impairment of significant historic features, the Secretary may grant a waiver of the program accessibility requirement. In determining whether program accessibility can be achieved without causing a substantial impairment, the Secretary shall consider the following factors:

(i) Scale of property, reflecting its ability to absorb alterations;

(ii) Use of the property, whether primarily for public or private purpose;

(iii) Importance of the historic features of the property to the conduct of the program; and,

(iv) Cost of alterations in comparison to the increase in accessibility.

The Secretary shall periodically review any waiver granted under this section and may withdraw it if technological advances or other changes so warrant.

(3) Where the property is federally owned or where Federal funds may be used for alterations, the comments of the Advisory Council on Historic Preservation shall be obtained when required by section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), and 36 CFR Part 800, prior to effectuation of structural alterations.

(f) *Time period.* A recipient shall comply with the requirements of paragraph (a) of this section within sixty days of the effective date of this part except that where structural changes in facilities are necessary, such changes shall be made within three years of the effective date of this part and as expeditiously as possible.

(g) *Transition plan.* In the event that structural changes to facilities are necessary to meet the requirement of paragraph (a) of this section, a recipient shall develop, within one year of the effective date of this part, a transition plan setting forth the steps necessary to complete such changes. The plan shall be developed with the assistance of interested persons, including handicapped persons or organizations representing handicapped persons. A copy of the transition plan shall be made available for public inspection. The plan shall, at a minimum:

(1) Identify physical obstacles in the recipient's facilities that limit the accessibility of its program or activity to handicapped persons;

(2) Describe in detail the methods that will be used to make the facilities accessible;

(3) Specify the schedule for taking the steps necessary to achieve full program accessibility and if the time period of the transition plan is longer than one year, identify steps that will be taken during each year of the transition period; and

(4) Identify the person responsible for implementation of the plan.

§ 15b.19 New construction.

(a) *Design and construction.* Each facility or part of a facility constructed by, on behalf of, or for the use of a

recipient shall be designed and constructed in such manner that the facility or part of the facility is readily accessible to and usable by handicapped persons, if the construction is commenced after the effective date of this part.

(b) *Alteration.* Each facility or part of a facility which is altered by, on behalf of, or for the use of a recipient after the effective date of this part in a manner that affects or could affect the usability of the facility or part of the facility shall to the maximum extent feasible, be altered in such manner that the altered portion of the facility is readily accessible to and usable by handicapped persons.

(c) *American National Standards Institute accessibility standards.* Design, construction, or alteration of facilities in conformance with the "American National Standard Specifications for "Making Buildings and Facilities Accessible to, and Usable by, the Physically Handicapped," published by the American National Standards Institute Inc. (ANSI A117.1-1980), 1430 Broadway, New York, N.Y. 10018, which is incorporated by reference into this part, shall constitute compliance with paragraphs (a) and (b) of this section. Departures from particular requirements of those standards by the use of other methods shall be permitted when it is clearly evident that equivalent access to the facility or part of the facility is thereby provided.

(d) *Compliance with the Architectural Barriers Act of 1968.* Nothing in this section of § 15b.18 relieves recipients, whose facilities are covered by the Architectural Barriers Act of 1968, as amended (42 U.S.C. 4151-4157) from their responsibility of complying with the requirements of that Act and any implementing regulations.

Subpart D—Preschool, Elementary, Secondary, Adult, and Extension Education

§ 15b.20 Applicability.

Except as otherwise noted, this subpart applies to public and private schools, elementary, secondary, adult, and extension education programs and activities that receive or benefit from Federal financial assistance provided by the Department of Agriculture after the effective date of this part and to recipients that operate, or that receive or benefit from Federal financial assistance for the operation of, such programs or activities.

§ 15b.21 Location and notification.

A recipient that operates a public elementary or secondary education program shall annually:

(a) Undertake to identify and locate every qualified handicapped person residing in the recipient's jurisdiction who is not receiving a public education; and

(b) Take appropriate steps to notify handicapped persons and their parents or guardians of the recipient's duty under this subpart.

§ 15b.22 Free appropriate public education.

(a) *General.* A recipient that operates a public elementary or secondary education program shall provide a free appropriate public education to each qualified handicapped person who is in the recipient's jurisdiction, regardless of the nature or severity of the person's handicap.

(b) *Appropriate education.* (1) For the purpose of this subpart, the provision of an appropriate education is the provision of regular or special education and related aids and services that (i) are designed to meet individual educational needs of handicapped persons as adequately as the needs of nonhandicapped persons are met and (ii) are based upon adherence to procedures that satisfy the requirements of § 15b.23, § 15b.24, and § 15b.25.

(2) Implementation of an individualized education program developed in accordance with the Education of the Handicapped Act is one means of meeting the standard established in paragraph (b)(1)(i) of this section.

(3) A recipient may place a handicapped person in or refer such person to a program other than the one that it operates as its means of carrying out the requirements of this subpart. If so, the recipient remains responsible for ensuring that the requirements of this subpart are met with respect to any handicapped person so placed or referred.

(c) *Free education.* (1) *General.* For the purpose of this section, the provision of a free education is the provision of educational and related services without cost to handicapped persons or their parents or guardians, except for those fees that are imposed on nonhandicapped persons or their parents or guardians. It may consist either of the provision of free services or, if a recipient places a handicapped person in or refers such person to a program not operated by the recipient as its means of carrying out the requirements of this subpart, payment for the costs of the program. Funds

available from any public or private agency may be used to meet the requirements of this subpart. Nothing in this section shall be construed to relieve an insurer or similar third party from an otherwise valid obligation to provide or pay for services provided to a handicapped person.

(2) *Transportation.* If a recipient places a handicapped person in or refers such person to a program not operated by the recipient as its means of carrying out the requirements of this subpart, the recipient shall ensure that adequate transportation to and from the program is provided at no greater cost than would be incurred by the person or his or her parents or guardian if the person were placed in the program operated by the recipient.

(3) *Residential placement.* If placement in a public or private residential program is necessary to provide a free appropriate public education to a handicapped person because of their handicap, the program, including nonmedical care and room and board, shall be provided at no cost to the person or his or her parents or guardian.

(4) *Placement of handicapped persons by parents.* If a recipient has made available in conformance with the requirements of this section and § 15b.23, a free appropriate public education to a handicapped person and the person's parents or guardian choose to place the person in a private school, the recipient is not required to pay for the person's education in the private school. Disagreements between a parent or guardian and a recipient regarding whether the recipient has made such a program available or otherwise regarding the question of financial responsibility are subject to the due process procedures of § 15b.25.

(d) *Compliance.* A recipient may not exclude any qualified handicapped person from a public elementary or secondary education after the effective date of this regulation. A recipient that is not, on the effective date of this regulation, in full compliance with the other requirements of the preceding paragraphs of this section shall meet such requirements at the earliest practicable time but in no event later than September 1, 1982.

§ 15b.23 Educational setting.

(a) *Academic setting.* A recipient to which this subpart applies shall educate, or shall provide for the education of each qualified handicapped person in its jurisdiction with persons who are not handicapped to the maximum extent appropriate to the needs of the

handicapped person. A recipient shall place a handicapped person in the regular educational environment operated by the recipient unless it is demonstrated by the recipient that the education of the person in the regular environment with the use of supplementary aids and services cannot be achieved satisfactorily. Whenever a recipient places a person in a setting other than the regular educational environment pursuant to this paragraph, it shall take into account the proximity of the alternate setting to the person's home.

(b) *Nonacademic setting.* In providing or arranging for the provision of nonacademic and extracurricular services and activities, including meals, recess periods, and the services and activities set forth in § 15b.26(a)(2), a recipient shall ensure that handicapped persons participate with nonhandicapped persons in such activities and services to the maximum extent appropriate to the needs of the handicapped person in question.

(c) *Comparable facilities.* If a recipient, in compliance with paragraph (a) of this section, operates a facility that is identifiable as being for handicapped persons, the recipient shall ensure that the facility and the services and activities provided therein are comparable to the other facilities, services, and activities of the recipient.

§ 15b.24 Evaluation and placement.

(a) *Placement evaluation.* A recipient that operates a public elementary or secondary education program shall conduct an evaluation in accordance with the requirements of paragraph (b) of this section of any person who, because of handicap, needs or is believed to need special education or related services before taking any action with respect to the initial placement of the person in a regular or special education program and any subsequent significant change in placement.

(b) *Evaluation procedures.* A recipient to which this section applies shall establish standards and procedures for the evaluation and placement of persons who, because of handicap, need or are believed to need special education or related services which ensure that:

(1) Tests and other evaluation materials have been validated for the specific purpose for which they are used and are administered by trained personnel in conformance with the instructions provided by their producer;

(2) Tests and other evaluation materials include those tailored to assess specific areas of educational need and not merely those which are

designed to provide a single general intelligence quotient; and

(3) Tests are selected and administered so as best to ensure that, when a test is administered to a student with impaired sensory, manual, or speaking skills, the test results accurately reflect the student's aptitude or achievement level or whatever other factor the test purports to measure, rather than reflecting the student's impaired sensory, manual or speaking skills (except where those skills are the factors that the test purports to measure).

(c) *Placement procedures.* In interpreting evaluation data and in making placement decisions, a recipient shall (1) draw upon information from a variety of sources, including aptitude and achievement tests, teacher recommendations, physical conditions, social or cultural background, and adaptive behavior, (2) establish procedures to ensure that information obtained from all such sources is documented and carefully considered, (3) ensure that the placement decision is made by a group of persons, including persons knowledgeable about the child, the meaning of the evaluation data, and the placement options, and (4) ensure that the placement decision is made in conformity with § 15b.23.

(d) *Reevaluation.* A recipient to which this section applies shall establish procedures, in accordance with paragraph (b) of this section, for periodic reevaluation of students who have been provided special education and related services. A reevaluation procedure consistent with the Education for the Handicapped Act is one means of meeting this requirement.

§ 15b.25 Procedural safeguards.

A recipient that operates a public elementary or secondary education program shall establish and implement, with respect to action regarding the identification, evaluation, or educational placement of persons who, because of handicap, need or are believed to need special instruction or related services, a system of procedural safeguards that includes notice, an opportunity for the parents or guardian of the person to examine relevant records, an impartial hearing with opportunity for participation by the person's parents or guardian and representation by counsel, and a review procedure. Compliance with the procedural safeguards of section 615 of the Education of the Handicapped Act is one means of meeting this requirement.

§ 15b.26 Nonacademic services.

(a) *General.* (1) Recipients to which this subpart applies shall provide nonacademic and extracurricular services and activities in such a manner as is necessary to afford handicapped students an equal opportunity for participation in such services and activities.

(2) Nonacademic and extracurricular services and activities may include counseling services, physical education and athletics, food services, transportation, health services, recreational activities, special interest groups or clubs sponsored by the recipient, referrals to agencies which provide assistance to handicapped persons, and assistance in obtaining outside employment.

(b) *Counseling services.* A recipient to which this subpart applies that provides personal, academic, or vocational counseling, guidance, or placement services to its students shall provide these services without discrimination on the basis of handicap. The recipient shall ensure that qualified handicapped students are not counseled toward more restrictive career objectives than are nonhandicapped students with similar interests and abilities.

(c) *Physical education and athletics.* (1) In providing physical education courses and athletics and similar programs and activities to any of its students, a recipient to which this subpart applies may not discriminate on the basis of handicap. A recipient that offers physical education courses or that operates or sponsors interscholastic, club, or intramural athletics shall provide to qualified handicapped students an equal opportunity for participation in these activities.

(2) A recipient may offer handicapped students physical education and athletic activities that are separate or different from those offered to nonhandicapped students only if separation or differentiation is consistent with requirements of § 15b.23, and only if no qualified handicapped student is denied the opportunity to compete for teams or to participate in courses that are not separate or different.

(d) *Food services.* In providing food services to any of its students, a recipient to which this subpart applies may not discriminate on the basis of handicap.

(1) Recipients shall serve special meals, at no extra charge, to students whose handicap restricts their diet. Recipients may require students to provide medical certification that special meals are needed because of their handicap.

(2) Where existing food service facilities are not completely accessible and usable, recipients may provide aides or use other equally effective methods to serve food to handicapped persons. Recipients shall provide all food services in the most integrated setting appropriate to the needs of handicapped persons as required by § 15b.23(b).

§ 15b.27 Extension education.

(a) *General.* A recipient to which this subpart applies that operates an extension education program or activity receiving assistance from this Department may not, on the basis of handicap, exclude qualified handicapped persons from the program or activity. A recipient shall take into account the needs of such persons in determining the benefits or services to be provided under the program or activity.

(b) *Program delivery sites.* (1) Where existing extension office facilities are inaccessible, recipients may make program services normally provided at those sites available to qualified handicapped persons through other methods which are equally effective. These methods may include meetings in accessible locations, home visits, written or telephonic communications, and other equally effective alternatives.

(2) For program services delivered at other publicly-owned facilities, recipients shall select accessible facilities wherever possible. If accessible facilities cannot be selected because they are unavailable or infeasible due to the nature of the activity, recipients shall use other methods to deliver program benefits to qualified handicapped persons. These methods may include the redesign of activities or some sessions of activities, the provision of aides, home visits, or other equally effective alternatives.

(3) For program services delivered at privately-owned facilities, such as homes and farm buildings, recipients shall use accessible facilities whenever qualified handicapped persons requiring such accessibility are participating, have expressed an interest in participating, or are likely to participate. If accessible facilities cannot be selected because they are unavailable or infeasible due to the nature of the activity, recipients shall use other methods to deliver program benefits to qualified handicapped persons. These methods may include the redesign of activities or some sessions of activities, the provision of aides, home visits, or other equally effective alternatives.

(4) Recipients shall make camping activities accessible to qualified

handicapped persons. Recipients are not required to make every existing camp, all existing camp facilities, or all camp sessions accessible, but recipients who operate more than one camp or session may not limit qualified handicapped persons to one camp or session.

(c) *Program materials.* Recipients shall make program materials accessible to qualified handicapped persons with sensory or mental impairments. Commonly-used materials shall be readily available in alternate forms such as Braille or tape. Upon request, recipients shall make other materials available through appropriate means such as Braille, tape, readers, large print formats, simplified versions, written scripts, or interpreters. Recipients need not provide individually prescribed devices, readers for personal use or study, or other devices or services of a personal nature.

§ 15b.28 Private education programs.

(a) A recipient that operates a private elementary or secondary education program receiving assistance from this Department may not, on the basis of handicap, exclude a qualified handicapped person from such program if the person can, with minor adjustments, be provided an appropriate education, as defined by § 15b.22(b)(1)(i). Each recipient to which this section applies is also subject to the provisions of § 15b.23 and § 15b.26.

(b) A recipient to which this section applies may not charge more for the provision of an appropriate education to handicapped persons than to nonhandicapped persons except to the extent that any additional charge is justified by a substantial increase in cost to the recipient.

Subpart E—Postsecondary Education

§ 15b.29 Applicability.

Subpart E applies to public and private postsecondary education programs and activities, including postsecondary vocational education programs and activities, that receive or benefit from Federal financial assistance provided by the Department of Agriculture after the effective date of this part.

§ 15b.30 Admissions and recruitment.

(a) *General.* Qualified handicapped persons may not, on the basis of handicap, be denied admission or be subjected to discrimination in admission or recruitment to a recipient to which this subpart applies.

(b) *Admissions.* In administering its admission policies, a recipient to which this subpart applies:

(1) May not apply limitations upon the number or proportion of handicapped persons who may be admitted;

(2) May not make use of any test or criterion for admission that has a disproportionate, adverse effect on handicapped persons or any class of handicapped persons unless (i) the test or criterion, as used by the recipient, has been validated as a predictor of success in the education program or activity in question and (ii) alternate tests or criteria that have a less disproportionate, adverse effect are not shown by the Secretary to be available.

(3) Shall assure itself that (i) admissions tests are selected and administered so as best to ensure that, when a test is administered to an applicant who has a handicap that impairs sensory, manual, or speaking skills, the test results accurately reflect the applicant's aptitude or achievement level or whatever other factor the test purports to measure, rather than reflecting the applicant's impaired sensory, manual, or speaking skills (except where those skills are the factors that the test purports to measure); (ii) admissions tests that are designed for persons with impaired sensory, manual, or speaking skills are offered as often and in as timely a manner as are other admissions tests; and (iii) admissions tests are administered in facilities that, on the whole, are accessible to handicapped persons; and

(4) Except as provided in paragraph (c) of this section, may not make preadmission inquiry as to whether an applicant for admission is a handicapped person but, after admission, may take inquiries on a confidential basis as to handicaps that may require accommodation.

(c) *Preadmission inquiry exception.* When a recipient is taking remedial action to correct the effects of past discrimination pursuant to § 15b.8(a) or when a recipient is taking voluntary action to overcome the effects of conditions that resulted in limited participation in its federally assisted program or activity pursuant to § 15b.8(b), the recipient may invite applicants for admissions to indicate whether and to what extent they are handicapped: *Provided*, That (1) the recipient states clearly on any written questionnaire used for this purpose or makes clear orally if no written questionnaire is used that the information requested is intended for use solely in connection with its remedial action obligations or its voluntary action efforts; and (2) the recipient states clearly that the

information is being requested on a voluntary basis, that it will be kept confidential, that refusal to provide it will not subject the applicant to any adverse treatment, and that it will be used only in accordance with this part.

(d) *Validity studies.* For the purpose of paragraph (b)(2) of this section, a recipient may base prediction equations on first year grades, but shall conduct periodic validity studies against the criterion of overall success in the education program or activity in question in order to monitor the general validity of the test scores.

§ 15b.31 Treatment of students.

(a) *General.* No qualified handicapped student shall, on the basis of handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any academic, research, occupational training, housing, health, insurance, counseling, financial aid, physical education, athletics, recreation, transportation, other extracurricular, other postsecondary education program or activity to which this subpart applies.

(b) A recipient to which this subpart applies that considers participation by students in education programs or activities not operated wholly by the recipient as part of, or equivalent to, an education program or activity operated by the recipient shall assure itself that the other education program or activity, as a whole, provides an equal opportunity for the participation of qualified handicapped persons.

(c) A recipient to which this subpart applies may not, on the basis of handicap, exclude any qualified handicapped student from any course, course of study, or other part of its education program or activity.

(d) A recipient to which this subpart applies shall operate its programs and activities in the most integrated setting appropriate.

§ 15b.32 Academic adjustments.

(a) *Academic requirements.* A recipient to which this subpart applies shall make such modifications to its academic requirements as are necessary to ensure that such requirements do not discriminate or have the effect of discriminating on the basis of handicap, against a qualified handicapped applicant or student. Academic requirements that the recipient can demonstrate are essential to the program or instruction being pursued by such student or to any directly related licensing requirement will not be regarded as discriminatory within the meaning of this section. Modifications may include changes in the length of

time permitted for the completion of degree requirements, substitution of specific courses required for the completion of degree requirements, and adaptation of the manner in which specific courses are conducted.

(b) *Other rules.* A recipient to which this subpart applies may not impose upon handicapped students other rules, such as the prohibition of tape recorders in classrooms or of dog guides in campus buildings, that have the effect of limiting the participation of handicapped students in the recipient's education program or activity.

(c) *Course examinations.* In its course examinations or other procedures for evaluating students' academic achievement in its program, a recipient to which this subpart applies shall provide such methods for evaluating the achievement of students who have a handicap that impairs sensory, manual, or speaking skills as will best ensure that the results of the evaluation represent the students' achievements in the course, rather than reflecting the students' impaired sensory, manual, or speaking skills (except where such skills are the factors that the test purports to measure).

(d) *Auxiliary aids.* (1) A recipient to which this subpart applies shall take such steps as are necessary to ensure that no handicapped student is denied the benefits of, excluded from participation in, or otherwise subjected to discrimination under the education program or activity operated by the recipient because of the absence of educational auxiliary aids for students with impaired sensory, manual, or speaking skills.

(2) Auxiliary aids may include taped texts, interpreters or other effective methods of making orally delivered materials available to students with hearing impairments, readers in libraries for students with visual impairments, classroom equipment adapted for use by students with manual impairments, and other similar services and actions. Recipients need not provide attendants, individually prescribed devices, readers for personal use or study, or other devices or services of a personal nature.

§ 15b.33 Housing.

(a) *Housing provided by the recipient.* A recipient that provides housing to its nonhandicapped students shall provide comparable, convenient, and accessible housing to handicapped students at the same cost as to others. At the end of the transition period provided for in Subpart C, such housing shall be available in sufficient quantity and variety so that the scope of handicapped students' choice of living accommodations is, as a

whole, comparable to that of nonhandicapped students.

(b) *Other housing.* A recipient that assists any agency, organization, or person in making housing available to any of its students shall take such action as may be necessary to assure itself that such housing is, as a whole, made available in a manner that does not result in discrimination on the basis of handicap.

§ 15b.34 Financial and employment assistance to students.

(a) *Provision of financial assistance.* (1) In providing financial assistance to qualified handicapped persons, a recipient to which this subpart applies may not (i), on the basis of handicap, provide less assistance than is provided to nonhandicapped persons, limit eligibility for assistance, or otherwise discriminate or (ii) assist any entity or person that provides assistance to any of the recipient's students in a manner that discriminates against qualified handicapped persons on the basis of handicap.

(2) A recipient may administer or assist in the administration of scholarships, fellowships, or other forms of financial assistance established under wills, trusts, bequests, or similar legal instruments that require awards to be made on the basis of factors that discriminate or have the effect of discriminating on the basis of handicap only if the overall effect of the award of scholarships, fellowships, and other forms of financial assistance is not discriminatory on the basis of handicap.

(b) *Assistance in making available outside employment.* A recipient that assists any agency, organization, or person in providing employment opportunities to any of its students shall assure itself that such employment opportunities, as a whole, are made available in a manner that would not violate Subpart B if they were provided by the recipient.

(c) *Employment of students by recipients.* A recipient that employs any of its students may not do so in a manner that violates Subpart B.

§ 15b.35 Nonacademic services.

(a) *Physical education and athletics.* (1) In providing physical education courses and athletics and similar programs and activities to any of its students, a recipient to which this subpart applies may not discriminate on the basis of handicap. A recipient that offers physical education courses or that operates or sponsors intercollegiate, club, or intramural athletics shall provide to qualified handicapped

students an equal opportunity for participation in these activities.

(2) A recipient may offer to handicapped students physical education and athletic activities that are separate or different only if separation or differentiation is consistent with the requirements of § 15b.31(d) and only if no qualified handicapped student is denied the opportunity to compete for teams or to participate in courses that are not separate or different.

(b) *Counseling and placement services.* A recipient to which this subpart applies that provides personal, academic, or vocational counseling, guidance, or placement services to its students shall provide these services without discrimination on the basis of handicap. The recipient shall ensure that qualified handicapped students are not counseled toward more restrictive career objectives than are nonhandicapped students with similar interests and abilities. This requirement does not preclude a recipient from providing factual information about licensing and certification requirements that may present obstacles to handicapped persons in their pursuit of particular careers.

(c) *Social organizations.* A recipient that provides significant assistance to fraternities, sororities, or similar organizations shall assure itself that the membership practices of such organizations do not permit discrimination otherwise prohibited by this subpart.

Subpart F—Other Programs and Activities

§ 15b.36 Applicability.

Subpart F applies to programs and activities, other than those covered by Subparts D and E, that receive or benefit from Federal financial assistance provided by the Department of Agriculture after the effective date of this part.

§ 15b.37 Auxiliary aids.

(a) A recipient to which this subpart applies that employs fifteen or more persons shall provide appropriate auxiliary aids to persons with impaired sensory, manual, or speaking skills, where necessary to afford such persons an equal opportunity to benefit from the service in question.

(b) The Secretary may require recipients with fewer than fifteen employees to provide auxiliary aids where the provision of aids would not significantly impair the ability of the

recipient to provide its benefits or services.

(c) For the purpose of this section, auxiliary aids may include Brailled and taped material, interpreters, and other aids for persons with impaired hearing or vision.

§ 15b.38 Health care facilities.

(a) *Communications.* A recipient that provides notice concerning benefits or services or written material concerning waivers of rights or consent to treatment shall take such steps as are necessary to ensure that qualified handicapped persons, including those with impaired sensory or speaking skills, are not denied effective notice because of their handicap.

(b) *Emergency treatment for the hearing impaired.* A recipient hospital that provides health services or benefits shall establish a procedure for effective communication with persons with impaired hearing for the purpose of providing emergency health care.

(c) *Drug and alcohol addicts.* A recipient to which this subpart applies that operates a general hospital or outpatient facility may not discriminate in admission or treatment against a drug or alcohol abuser or alcoholic who is suffering from a medical condition, because of the person's drug or alcohol abuse or alcoholism.

§ 15b.39 Education of institutionalized persons.

A recipient to which this subpart applies that operates or supervises a program or activity for persons who are institutionalized because of handicap shall ensure that each qualified handicapped person, as defined in § 15b.3(n)(2), in its program, or activity is provided an appropriate education, as defined in § 15b.22(b). Nothing in this section shall be interpreted as altering in any way the obligations of recipients under Subpart D.

§ 15b.40 Food services.

(a) Recipients which operate food service programs assisted by this Department shall serve special meals, at no extra charge, to persons whose handicap restricts their diet. Recipients may require handicapped persons to provide medical certification that special meals are needed because of their handicap.

(b) Where existing food service facilities are not completely accessible and usable, recipients may provide aides or use other equally effective methods to serve food to handicapped persons. Recipients shall provide all

food services in the most integrated setting appropriate to the needs of handicapped persons.

§ 15b.41 Multi-family rental housing.

(a) *General.* No qualified handicapped person shall, on the basis of handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination in a multi-family rental housing program.

(b) *New construction.* (1) Recipients receiving assistance from the Department for multi-family rental housing projects constructed after the effective date of this part shall construct at least five percent of the units in the project or one unit, whichever is greater, to be accessible to or adaptable for physically handicapped persons. The requirement that five percent of the units in the project or at least one unit, whichever is greater, be accessible or adaptable may be modified if a recipient shows, through a market survey approved by the Department, that a different percentage of accessible or adaptable units is appropriate for a particular project and its service area.

(i) The variety of units accessible to or adaptable for physically handicapped persons shall be comparable to the variety of units available in the project as a whole.

(ii) No extra charge may be made for use of accessible or adaptable units.

(iii) A recipient that operates multi-family rental housing projects on more than one site may not locate all accessible or adaptable units at one site unless only one accessible or adaptable unit is required.

(2) Standards for accessibility are contained in Subpart C and in appropriate program regulations.

(c) *Existing facilities.* Recipients receiving assistance from the Department for multi-family rental housing projects constructed prior to the effective date of this part shall assure that their facilities comply with the program accessibility requirements established in Section 15b.18 if a qualified handicapped person applies for admission. Necessary physical alterations made pursuant to such requirements shall be completed within a reasonable amount of time after the unit becomes available for occupancy by the qualified handicapped person. Subject to the availability of funds and fulfillment by the recipient of all program eligibility requirements, the Department may assist recipients to comply with program accessibility requirements through methods such as (1) consideration of subsequent loan applications for purposes of making

existing facilities accessible or for the construction of additional units which are accessible and (2) consideration of approval to commit project reserve account funds for minor modifications in order to make existing facilities accessible.

Subpart G—Procedures

§ 15b.42 Procedures.

The procedural provisions applicable to Title VI of the Civil Rights Act of 1964 apply to this part. These procedures are found in 7 CFR 15.5–15.11 and 15.60–15.143.

Appendix A—List of USDA-Assisted Programs

Programs administered by the U.S. Department of Agriculture in which Federal financial assistance is rendered, include but are not limited to the following:

Program	Authority
Administered by the Agricultural Cooperative Service	
1. Technical assistance for agricultural cooperatives.....	Cooperative Marketing Act of 1926, 7 U.S.C., Secs. 451-457.
Administered by the Agricultural Marketing Service	
2. Federal-State marketing improvement program.....	Sec. 204(b) of the Agricultural Marketing Act of 1946, 7 U.S.C. 1623(b).
3. Market news service.....	Sec. 203(g) of the Agricultural Marketing Act of 1946, 7 U.S.C. 1622(g); the Cotton Statistics and Estimates Act, as amended, 7 U.S.C. 471-476; the Tobacco Statistics Act, as amended, 7 U.S.C. 501-508; the Tobacco Inspection Act, 7 U.S.C. 511-511(q); the Naval Stores Act, 7 U.S.C. 91-99; the Turpentine and Rosin Statistics Act, 7 U.S.C. 2248; the United States Cotton Futures Act, 7 U.S.C. 15b; and the Peanut Statistics Act as amended, 7 U.S.C. 951-957.
Administered by the Agricultural Research Service	
4. Agriculture research grants.....	Secs. 1 and 10 of the Act of June 29, 1935, as amended, 7 U.S.C. 427 and 427i; and 202-208 of the Agricultural Marketing Act of 1946, as amended, 7 U.S.C. 1621-1627.
Administered by the Agricultural Stabilization Conservation Service	
5. Price support programs operating through producer associations, cooperatives, and other recipients in which the recipient is required to furnish specified benefits to producers (e.g., tobacco, peanuts, sugar, cotton, rice, honey and soybeans price support programs).	Agricultural Act of 1949, as amended; 7 U.S.C. 1421-1447.
6. Disaster feed donation programs.....	Section 407 of the Agricultural Act of 1949, as amended, 7 U.S.C. 1427.
Administered by the Cooperative State Research Service	
7. Payments under the Hatch Act.....	Hatch Act of 1887, as amended, 7 U.S.C. 361a-361i.
8. McIntire-Stennis cooperative forestry research.....	Act of October 10, 1962, as amended, 16 U.S.C. 582a-582a-7.
9. Payments to 1890 colleges and Tuskegee Institute for research.....	Sec. 1445 of the Food and Agriculture Act of 1977, as amended, 7 U.S.C. 3222.
10. Native latex research.....	Native Latex Commercialization and Economic Development Act of 1978, 7 U.S.C. 178 <i>et seq.</i>
11. Alcohol Fuels research.....	Sec. 1419 of the Food and Agriculture Act of 1977, as amended, 7 U.S.C. 3154.
12. Animal Health Research.....	Sec. 1433 of the Food and Agriculture Act of 1977, as amended, 7 U.S.C. 3195.
13. Competitive research grants.....	Sec. 2(b) of the Act of August 4, 1965, as amended, 7 U.S.C. 450(b).
14. Experiment station research facilities.....	Act of July 22, 1963, as amended, 7 U.S.C. 390-390j.
15. Special research grants.....	Sec. 2(c) of the Act of August 4, 1965, as amended, 7 U.S.C. 450(c).
16. Rural development research.....	Title V of the Rural Development Act of 1972, as amended, 7 U.S.C. 2661 <i>et seq.</i>
Administered by Extension Service	
17. Cooperative extension work.....	Smith-Lever Act, as amended, 7 U.S.C. 341-349; District of Columbia Public Postsecondary Education Reorganization Act, D.C. Code Secs. 31-1719; Rural Development Act of 1972, as amended, 7 U.S.C. 2661 <i>et seq.</i> ; Sec. 1444 of the Food and Agriculture Act of 1977, 7 U.S.C. 3221.
Administered by Farmers Home Administration	
18. Farm ownership loans to install or improve recreational facilities or other nonfarm enterprises.	Sec. 303 of the Consolidated Farm and Rural Development Act, as amended, 7 U.S.C. 1923.
19. Operating loans to install or improve recreational facilities or other nonfarm enterprises.	Sec. 312 of the Consolidated Farm and Rural Development Act, as amended, 7 U.S.C. 1942.
20. Soil and water conservation, (including pollution abatement facilities), and recreational facilities.	Sec. 304 of the Consolidated Farm and Rural Development Act, as amended, 7 U.S.C. 1924.
21. Financial and other assistance to landowners, operators, or occupiers to carry out land uses and conservation.	Sec. 203 of the Appalachian Regional Development Act of 1965, as amended, 40 U.S.C. App. 203.
22. Rural renewal, resource, conservation development, land conservation and utilization.	Secs. 31-35 of the Bankhead-Jones Farm Tenant Act, as amended, 7 U.S.C. 1010-1035.
23. Watershed protection and flood prevention program.....	Watershed Protection and Flood Prevention Act, as amended, 16 U.S.C. 1001-1008.
24. Resource conservation and development loans.....	Sec. 32(e) of the Bankhead-Jones Farm Tenant Act, as amended, 7 U.S.C. 1011(e).
25. Farm labor housing loans.....	Sec. 514 of the Housing Act of 1949, 42 U.S.C. 1484.
26. Farm labor housing grants.....	Sec. 516 of the Housing Act of 1949, as amended, 42 U.S.C. 1486.
27. Rural rental housing for the elderly and families of low and moderate income persons.	Sec. 515 of the Housing Act of 1949, as amended, 42 U.S.C. 1485.
28. Rural cooperative housing.....	Sec. 515 of the Housing Act of 1949, as amended, 42 U.S.C. 1485.
29. Rural housing site loans.....	Sec. 524 of the Housing Act of 1949, as amended, 42 U.S.C. 1490d.
30. Technical and supervisory assistance grants.....	Sec. 525 of the Housing Act of 1949, as amended, 42 U.S.C. 1490e.
31. Technical assistance grants.....	Sec. 523 of the Housing Act of 1949, as amended, 42 U.S.C. 1490c.
32. Rural housing self-help site loans.....	Sec. 523 of the Housing Act of 1949, as amended, 42 U.S.C. 1490c.
33. Mutual self-help housing.....	Sec. 523 of the Housing Act of 1949, as amended, 42 U.S.C. 1490c.
34. Water and waste facility loans and grants and community facility loans and grants.	Sec. 306 of the Consolidated Farm and Rural Development Act, as amended, 7 U.S.C. 1926.
35. Rural and industrial loan program.....	Sec. 310(a) of the Consolidated Farm and Rural Development Act, as amended, 7 U.S.C. 1932(a).
36. Private business enterprise grants.....	Sec. 310(c) of the Consolidated Farm and Rural Development Act, as amended, 7 U.S.C. 1932(c).
37. Area development assistance planning grant program.....	Sec. 306(a)(11) of the Consolidated Farm and Rural Development Act, as amended, 7 U.S.C. 1926(a)(11).
38. Energy impacted area development assistance program.....	Sec. 601 of the Power Plant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8401.

Program	Authority
Administered by the Federal Grain Inspection Service	
39. Inspection administration and supervision.....	U.S. Grain Standards Act, as amended, 7 U.S.C. 71-87; and, Sec. 203(h) of the Agricultural Marketing Act of 1946, 7 U.S.C. 1621-1630.
Administered by the Food and Nutrition Service	
40. Food stamp program.....	Food Stamp Act of 1964, as amended, 7 U.S.C. 2011-2027.
41. Special supplemental food program for women, infants, and children (WIC).	Sec. 17 of the Child Nutrition Act of 1966, as amended, 42 U.S.C. 1786.
42. Commodity supplemental food program.....	Sec. 32 of the Act of August 24, 1935, as amended, 7 U.S.C. 612c; Sec. 416 of the Agricultural Act of 1949, as amended, 7 U.S.C. 1431.
43. Food distribution program.....	Sec. 416 of the Agricultural Act of 1949, as amended, 7 U.S.C. 1431; Sec. 32 of the Act of August 24, 1935, as amended, 7 U.S.C. 612c; Secs. 6, 13 and 17 of the National School Lunch Act, as amended, 42 U.S.C. 1755, 1761, 1766; Sec. 8 of the Child Nutrition Act of 1966, 42 U.S.C. 1777; Sec. 709 of the Food and Agriculture Act of 1965, as amended, 7 U.S.C. 1446a-1.
44. National school lunch program.....	National School Lunch Act, as amended, 42 U.S.C. 1751-1769a.
45. School breakfast program.....	Sec. 4 of the Child Nutrition Act of 1966, as amended, 42 U.S.C. 1773.
46. Special milk program.....	Sec. 3 of the Child Nutrition Act of 1966, as amended, 42 U.S.C. 1772.
47. Food service equipment assistance.....	Sec. 5 of the Child Nutrition Act of 1966, as amended, 42 U.S.C. 1774; Sec. 5 of the National School Lunch Act, as amended, 42 U.S.C. 1754.
48. Summer food service program.....	Sec. 13 of the National School Lunch Act, as amended, 42 U.S.C. 1761.
49. Child care food program.....	Sec. 17 of the National School Lunch Act, as amended, 42 U.S.C. 1766.
50. Nutrition education and training program.....	Secs. 18 and 19 of the Child Nutrition Act of 1966, 42 U.S.C. 1787, 1788.
Administered by the Food Safety and Inspection Service	
51. Payments to States for the inspection of egg handlers to insure that they are properly disposing of restricted eggs.	Egg Products Inspection Act, 21 U.S.C. 1031-1056.
52. Financial and technical assistance to States for meat inspection activities.	Federal Meat Inspection Act, as amended, 21 U.S.C. 601-695.
53. Financial and technical assistance to States for poultry inspection activities.	Poultry Products Inspection Act, as amended, 21 U.S.C. 451-470.
54. Financial and technical assistance to States for meat and poultry inspection activities.	Talmadge-Aiken Act, 7 U.S.C. 450.
Administered by the Forest Service	
55. Permits for use of National Forests and National Grasslands by other than individuals at a nominal or no charge.	Act of June 4, 1897, as amended, 16 U.S.C. 551; Sec. 501 of the Federal Land Policy Management Act of 1976, 43 U.S.C. 1761; Term Permit Act of March 4, 1915, as amended, 16 U.S.C. 497; Secs. 3 and 4 of the American Antiquities Act of June 8, 1906, 16 U.S.C. 432; Sec. 32 of the Bankhead-Jones Farm Tenant Act, as amended, 7 U.S.C. 1011.
56. Permit for land use of Government-owned improvements by other than individuals at a nominal charge.	Sec. 7 of the Granger-Thye Act of April 24, 1950, 16 U.S.C. 580d.
57. Permits for disposal of common varieties of mineral materials from lands under the Forest Service jurisdiction for use by other than individuals at a nominal or no charge.	Secs. 1-4 of the Act of July 31, 1947, as amended, 30 U.S.C. 601-603, 611.
58. Easements for use of National Forests and Grasslands by other than individuals at a nominal or no charge.	Sec. 32 of the Bankhead-Jones Farm Tenant Act, as amended, 7 U.S.C. 1011; Sec. 501 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1761.
59. Easements for road rights-of-way over lands administered by the Forest Service.	Sec. 2 of the Act of October 13, 1964, 16 U.S.C. 533.
60. Road rights-of-way.....	Federal Highway Act of 1958, 23 U.S.C. 107, 317.
61. Rights-of-ways for wagon roads or railroads.....	Sec. 501 of the Act of March 3, 1899, 16 U.S.C. 525.
62. Timber granted free or at nominal cost to any group.....	Sec. 1 of the Act of June 4, 1897, as amended, 16 U.S.C. 551; Sec. 32 of the Bankhead-Jones Farm Tenant Act, as amended, 7 U.S.C. 1011.
63. Transfer for fire-lookout towers, improvements and land to States political subdivisions.	Sec. 5 of the Act of June 20, 1958, 16 U.S.C. 565b.
64. Payment of 25 percent of National Forest receipts to States for schools and roads.	Act of May 23, 1908, as amended, 16 U.S.C. 500.
65. Payment to Minnesota from National Forest receipts of a sum based on a formula.	Sec. 5 of the Act of June 22, 1948, as amended, 16 U.S.C. 577g, 577g-1.
66. Payment of 25 percent of net revenues from Title III, Bankhead-Jones Farm Tenant Act lands to counties for schools and road purposes.	Sec. 33 of the Bankhead-Jones Farm Tenant Act, as amended, 7 U.S.C. 1012.
67. Cooperative action to protect, develop, manage, and utilize forest resources on State and private lands.	Cooperative Forestry Assistance Act of 1978, 16 U.S.C. 2101-2111.
68. Advance of funds for cooperative research.....	Sec. 20 of the Granger-Thye Act of April 24, 1950, 16 U.S.C. 581-1.
69. Grants for support of scientific research.....	Act of September 6, 1958, 42 U.S.C. 1891-1893.
70. Research cooperation.....	Forest and Rangeland Renewable Resources Research Planning Act of 1974, as amended, 16 U.S.C. 1600-1614.
71. Youth conservation corps State grant program.....	Act of August 13, 1970, as amended, 16 U.S.C. 1701-1706.
72. Young adult conservation corps State grant program.....	Secs. 801-809 of the Comprehensive Employment and Training Act, as amended, 29 U.S.C. 991-999.
73. Grants to Maine, Vermont, and New Hampshire for the purpose of assisting economically disadvantaged citizens over 55 years of age.	Older Americans Act of 1965, as amended, 42 U.S.C. 3001-3057g.
74. Senior community service employment program (SCSEP).....	Sec. 902(b)(2) of Title IX of the Older Americans Amendments of 1975, 42 U.S.C.
Administered by the Rural Electrification Administration	
75. Rural electrification and rural telephone programs.....	Rural Electrification Act of 1963, as amended, 7 U.S.C. 901-950b.
76. CATV, community facilities program.....	Secs. 306 and 310B of the Consolidated Farm and Rural Development Act of 1979, 7 U.S.C. 1926, 1932.
Administered by Science and Education Program Staff	
77. Higher education.....	Sec. 22 of the Act of June 29, 1935, as amended, 7 U.S.C. 329; Sec. 1417 of the Food and Agriculture Act of 1977, 7 U.S.C. 3152.
Administered by the Soil Conservation Service	
78. Soil and water conservation.....	Secs. 1-6 and 17 of the Soil Conservation and Domestic Allotment Act, as amended, 16 U.S.C. 590a-590f, 590g.
79. Plant materials for conservation.....	Secs. 1-6 and 17 of the Soil Conservation and Domestic Allotment Act, as amended, 16 U.S.C. 590a-590f, 590g.
80. Resource, conservation and development.....	Secs. 31 and 32 of the Bankhead-Jones Farm Tenant Act, as amended, 7 U.S.C. 1010, 1111; Secs. 1-6 and 17 of the Soil Conservation and Domestic Allotment Act, as amended, 16 U.S.C. 590a-590f, 590g.
81. Watershed protection and flood prevention.....	Watershed Protection and Flood Prevention Act, as amended, 16 U.S.C. 1001-1008.
82. Great plains conservation.....	Secs. 1-6 and 17 of the Soil Conservation and Domestic Allotment Act, as amended, 16 U.S.C. 590a-590f, 590g.

Program	Authority
83. Soil survey.....	Secs. 1-6 and 17 of the Soil Conservation and Domestic Allotment Act, as amended, 16 U.S.C. 590a-590f, 590g.
84. River basin surveys and investigations.....	Sec. 6 of the Watershed Protection and Flood Prevention Act, 16 U.S.C. 1006.
85. Snow survey and water supply forecasting.....	Secs. 1-6 and 17 of the Soil Conservation and Domestic Allotment Act, as amended, 16 U.S.C. 590a-590f, 590g.
86. Land inventory and monitoring.....	Secs. 1-6 and 17 of the Soil Conservation and Domestic Allotment Act, as amended, 16 U.S.C. 590a-590f, 590g; Sec. 302 of the Rural Development Act of 1972, 7 U.S.C. 1010a.
87. Resource appraisal and program development.....	Soil and Water Resources Conservation Act of 1977, 16 U.S.C. 2001-2009.
88. Rural clean water program.....	Clean Water Act, 33 U.S.C. 1251-1376.
89. Rural abandoned mine program.....	Secs. 406-413 of the Surface Mining Control and Reclamation Act of 1977, 30 U.S.C. 1236-1243.
90. Emergency watershed protection.....	Sec. 7 of the Act of June 28, 1938, as amended, 33 U.S.C. 701b-1; Sec. 403, Agriculture Credit Act of 1978, 16 U.S.C. 2203.
91. Eleven authorized watershed projects.....	Sec. 13 of the Act of December 22, 1944, 58 Stat. 905.
Administered by the Office of Transportation	
92. Transportation services.....	Sec. 201 of the Agricultural Adjustment Act of 1938, 7 U.S.C. 1291; Sec. 203(j) of the Agricultural Marketing Act of 1946, as amended, 7 U.S.C. 1622(j); Sec. 104 of the Agricultural Trade Development and Assistance Act of 1954, as amended, 7 U.S.C. 1704.

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Federal Register

Friday
June 11, 1982

Part IV

Department of the Interior

Office of Surface Mining Reclamation and
Enforcement

Permanent Regulatory Program; General
Requirements for Alluvial Valley Floors

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 701, 785, and 822

Permanent Regulatory Program; General Requirements for Alluvial Valley Floors

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.
ACTION: Proposed rule.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) proposes to revise rules governing surface coal mining operations on or near alluvial valley floors (AVF's). The proposed rules would amend the permit requirements and performance standards associated with AVF's. Most of the changes are needed to eliminate counter productive or burdensome rules. The proposal would provide State regulatory authorities with flexibility as to the amount of information that has to accompany permit applications for mining on or near AVF's. It would allow applicants to request expedited determinations of whether statutory exclusions apply. In addition, it would conform the rules to a district court decision which caused OSM to suspend a number of provisions dealing with AVF's.

DATES: *Written comments:* Accepted until further notice.

Public hearings: Held on request only, on July 28, 1982, at 9 a.m. (local).

Public meetings: Scheduled on request only.

ADDRESSES: *Written comments:* Hand-deliver to the Office of Surface Mining, U.S. Department of the Interior, Administrative Record (TSR 14.09), Room 5315, 1100 L Street, N.W., Washington, D.C.; or mail to the Office of Surface Mining, U.S. Department of the Interior, Administrative Record (TSR 14.09), Room 5315L, 1951 Constitution Avenue, NW., Washington, DC 20240.

Public hearings: Washington, D.C.—Department of the Interior Auditorium, 18th and C Streets, NW.; Pittsburgh, Pa.—William S. Moorehead Federal Building, Room 2212, 1000 Liberty Ave.; and Denver, Colo.—Brooks Tower, 2d Floor Conference Room, 1020 15th Street.

Public meetings: OSM offices in Washington, D.C.; Charleston, W. Va.; Knoxville, Tenn.; Indianapolis, Ind.; Pittsburgh, Pa.; and Denver, Colo.

FOR FURTHER INFORMATION CONTACT: *Public hearings and information:* Dr. Mark Boster, Office of Surface Mining, U.S. Department of the Interior, 1951

Constitution Avenue, NW., Washington, DC 20240; 202-343-2156.

Public meetings: Jose del Rio, 202-343-4022.

SUPPLEMENTARY INFORMATION:

- I. Public Commenting Procedures
- II. Background
- III. Discussion of Proposed Rules
- IV. Procedural Matters

I. Public Commenting Procedures*Written Comments*

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Commenters are requested to submit five copies of their comments (see "Addresses"). Comments received at locations other than Washington, D.C., will not necessarily be considered or be included in the Administrative Record for the final rulemaking. The comment period will remain open until the close of the comment period on the draft environmental impact statement that will consider this proposed rule.

Public Hearings

Persons wishing to comment at the public hearings should contact the person listed under "For Further Information Contact" by the close of business *three working days* before the date of the hearing. If no one requests to comment at a public hearing at a particular location by that date, the hearing will not be held. If only one person requests to comment, a public meeting, rather than a public hearing, may be held and the results of the meeting included in the Administrative Record. Filing of a written statement at the time of the hearing is requested and will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare appropriate questions.

Public hearings will continue on the specified date until all persons scheduled to comment have been heard. Persons in the audience who have not been scheduled to comment and wish to do so will be heard following those scheduled. The hearing will end after all persons scheduled to comment, and persons present in the audience who wish to comment, have been heard.

Public Meetings

Persons wishing to meet with OSM representatives to discuss these proposed rules may request a meeting at any of the OSM offices listed in "Addresses" by contacting the person

listed under "For Further Information Contact."

All such meetings are open to the public and, if possible, notices of meetings will be posted in advance in the Administrative Record room (1100 L St.). A written summary of each public meeting will be made a part of the Administrative Record.

II. Background*The Act*

The Surface Mining Control and Reclamation Act of 1977, 30 U.S.C. 1201 *et seq.* (the Act), provides specific protection for AVF's in addition to the general environmental protection performance standards applicable to AVF's. Section 701(1) of the Act defines alluvial valley floors as "unconsolidated stream laid deposits holding streams where water availability is sufficient for subirrigation (natural) or flood irrigation (artificial)," excluding upland areas.

Section 510(b)(5) of the Act requires surface coal mining operation permit applications to demonstrate affirmatively and the regulatory authority to find in writing that a number of requirements unique to AVF's will be satisfied. That section applies only to proposed surface coal mining operations located west of the 100th meridian west longitude. Section 510(b)(5)(A) requires a permit application to demonstrate that the surface coal mining operation would "not interrupt, discontinue, or preclude farming on alluvial valley floors that are irrigated or naturally subirrigated * * *". Two exceptions from this requirement are provided in section 510(b)(5)(A). The first is for undeveloped rangeland which is not significant to farming. The second allows mining when the regulatory authority finds that mining activities will interrupt "such small acreage as to be of negligible impact on the farm's agricultural production."

In addition, section 510(b)(5)(B) of the Act requires a demonstration that the mining would not materially damage the quantity or quality of water in surface or underground water systems that supply the AVF's referred to in section 510(b)(5)(A) of the Act on which farming cannot be interrupted, discontinued, or precluded.

A proviso in section 510(b)(5) of the Act exempts from the requirements of section 510(b)(5) those surface coal mining operations which in the year preceding the enactment of the Act (August 3, 1977) produced coal in commercial quantities and were located within or adjacent to AVF's or had specific permit approval from the State

regulatory authority to conduct surface coal mining operations on AVF's.

A further proviso, in section 506(d)(2) of the Act, excludes from the requirements of section 510(b)(5) of the act any land that is the subject of an application for renewal or revision of a permit issued under the Act which is an extension of the original permit, insofar as (1) the land was previously identified in a reclamation plan submitted under section 508 of the Act, and (2) the original permit area was excluded from the requirements of section 510(b)(5) of the Act under the proviso of section 510(b)(5) for operations which produced coal in the year preceding enactment of the Act.

Regardless of whether the standards of section 510(b)(5) of the Act for protection of AVF's apply, the hydrologic protections of sections 510(b)(3) and 515(b)(10)(F) of the Act apply. Section 515(b)(10)(F) requires mining operations to minimize disturbances to the prevailing hydrologic balance at the minesite and in associated offsite areas and to the quality and quantity of water in surface and ground water systems both during and after surface coal mining operations and during reclamation by preserving throughout the mining and reclamation process the essential hydrologic functions of AVF's in the arid and semiarid areas of the country.

Regulatory Implementation of AVF Requirements

The Act's AVF requirements have been implemented in three principal places in 30 CFR. The major terms pertaining to AVF's are defined in 30 CFR 701.5. Specific permit application requirements for AVF's are set forth in 30 CFR 785.19. Finally, additional specific performance standards for AVF's are set forth in 30 CFR Part 822.

A discussion of particular features of the existing rules is included below in "III. Discussion of Proposed Rules."

Legal Challenge to AVF Rules

Several provisions of the rules of AVF's were the subject of judicial review in *In re: Permanent Surface Mining Regulation Litigation*, Civil Action No. 79-1144 (D.D.C., February 26, 1980) at pp. 45-53. Although a number of OSM's AVF rules were upheld, Judge Flannery invalidated §§ 785.19(d)(2)(iii) and (iv), (e)(1)(ii), and (e)(2). The court's actions are explained in the next paragraph and in the "Discussion of Proposed Rules." OSM complied with the district court decision in a Federal Register notice published on August 4, 1980, (45 FR 51549) which suspended the invalidated portions of § 785.19.

OSM had interpreted the requirement of section 510(b)(5)(B) of the Act that surface coal mining operations not materially damage the quantity or quality of water system supplying AVF's to apply to water systems supplying any AVF regardless of whether the exclusions of section 510(b)(5)(A) apply. The district court held that this requirement does not apply to mining operations affecting AVF's that are exempt from the requirements of section 510(b)(5)(A), *i.e.*, undeveloped rangelands which are not significant to farming and small acreage with negligible impact on farm production. The rules proposed today would be consistent with the district court decision.

Purpose of Rulemaking

The purpose of this rulemaking is to implement Congressional intent as expressed in the Act for the protection of alluvial valley floors in the arid and semiarid west. At the same time, the changes are intended to eliminate confusion about the protection requirements for alluvial valley floors, simplify the permit application procedures with which operators must comply, and provide the regulatory authority with enough flexibility to reflect site-specific conditions by adjusting the type of information and level of analysis necessary to demonstrate that the alluvial valley floor is being protected.

Much of the technical information that is proposed for elimination, while not wrong, would not be included as part of the rules. Although such information could appropriately be included in accompanying guidelines, it adds unnecessary length and confusion to the regulatory structure.

III. Discussion of Proposed Rules

Section 701.5 Definitions.

OSM proposes to amend the definition of five terms related to the protection of alluvial valley floors to eliminate unnecessary and excessive language and to improve understanding of the terms' meanings.

1. *Agricultural activities.* The first of the definitions, "agricultural activities," would be changed slightly to include consideration of regional agricultural practices. OSM believes that the regulatory authority should evaluate agricultural activities on the alluvial valley floor in accordance with accepted regional agricultural practices to eliminate any confusion about an agricultural land use on alluvial valley floors.

2. *Essential hydrologic functions.* Two alternative definitions of "essential hydrologic functions" are proposed, both of which would shorten and simplify the existing definition. The existing definition contains one basic description and then provides a lengthy and often confusing discussion of the characteristics of alluvial valley floors referred to in the basic description. As presently defined, essential hydrologic functions means the role of an AVF in collecting, storing, regulating and making the natural flow of surface or ground water, or both, usefully available for agricultural activities by reason of the valley floor's topographic position, the landscape, and the physical properties of its underlying materials. The remainder of the definition is a discussion of the functions of collection, storage, regulation, and the making of water usefully available.

The first proposed alternative would adopt the operative portions of the existing definition, which is the existing first paragraph, and would eliminate the unnecessary and excessive explanation of the role of the alluvial valley floor contained in paragraphs (a) through (d). The proposed shortened definition would continue to recognize the basic concern of Congress for the protection of the essential hydrologic functions and provides a more functional definition to assure protection of these areas of the West.

The second proposed alternative would separately define essential hydrologic functions of an AVF for the periods during and after mining. Under the second proposed alternative, essential hydrologic functions would mean, with respect to AVF's, (1) during the mining process, the maintenance of the water balance both upstream and downstream of surface coal mining operations so that the natural vegetation cover is not destroyed and the erosional balance of the area is not seriously disrupted, and (2) upon the completion of mining, the reestablishment of the premining capability of an alluvial valley floor to collect, store, regulate, and make the natural flow of surface or ground water, or both, usefully available. OSM believes that this second proposed definition is consistent with congressional intent as expressed in H. Rept. No. 95-218, 95th Cong., 1st sess. (1977) at p. 118.

3. *Materially damage the quantity or quality of water.* The definition of "materially damage the quantity or quality of water" is also proposed to be amended slightly to simplify and clarify its application and to reflect the February 26, 1980, district court decision,

referred to previously, that material damage requirements only apply to alluvial valley floors on which farming will not be interrupted, discontinued, or precluded.

The proposed definition would not change the level of protection of water systems that supply alluvial valley floors which are significant to farming. It would reflect OSM's belief that some impacts to the water system will probably occur as a result of surface mining. However, those impacts may not be of sufficient magnitude to decrease the capability of the alluvial valley floor to support agricultural activities. Whether the damage to the quality and quantity of water that supplies an alluvial valley floor would be material is relative to the water contained in the actual alluvial valley floor in question. The proposed definition considers the interaction between the water supplying the alluvial valley floor and the water in the alluvial valley floor system that supports or could support an agricultural activity. Under this proposed definition, changes to the water quantity or quality of the supplying water would have to be evaluated relative to the water contained in the alluvial valley floor. Thus, the magnitude and direction of any change would have to be considered along with flow rates and storage volume so that the entire water system could be evaluated. Under the proposed definition, a determination would have to be made on whether the water in the alluvial valley floor would be degraded to a point that would significantly affect its capability to support agricultural activities.

4. Subirrigation. Subirrigation, as currently defined, means the supplying of water to plants from underneath or from a semisaturated or saturated subsurface zone where water is available for use by vegetation. The existing definition specifies five categories of water availability to aid in identifying subirrigation. The proposed definition of "subirrigation" would be shortened to eliminate unnecessary regulatory language in existing paragraphs (a) through (e) on the identification of subirrigation. Elimination of this material from the definition would have no effect on the application of the definition or on the level of protection provided alluvial valley floors.

5. Unconsolidated streamlaid deposits holding streams. "Unconsolidated streamlaid deposits holding streams," as currently defined, means all flood plains and terraces located in the lower portions of topographic valleys which contain perennial or other streams with

channels that are greater than 3 feet in bankfull width and greater than one-half foot in bankfull depth. This definition was upheld by the district court in its February 26, 1980, decision.

The proposed definition of "unconsolidated streamlaid deposits holding streams" would be shortened to eliminate the unnecessary technical details on the stream bankfull width and depth. The proposed definition, without this detailed technical information, would allow the regulatory authority to adopt identification techniques that best reflect local conditions while assuring the protection of alluvial valley floors consistent with Congressional intent. In addition, the existing definition would specify the meaning of " * * * other streams * * *" as intermittent and ephemeral.

Section 785.19 Permit application requirements.

The rules on permit application requirements for surface coal mining and reclamation operations involving alluvial valley floors which are currently contained in § 785.19 would be modified to: delete duplicative information contained in other parts of the rules; delete detailed technical information and requirements that are not necessary for the protection of alluvial valley floors; respond to the February 26, 1980, district court decision; and establish a procedure by which the regulatory authority, as early in the permit process as possible, can identify alluvial valley floors and determine whether the statutory exclusions are applicable.

Existing §§ 785.19 (a) and (b).

The proposed rule would eliminate existing §§ 785.19 (a) and (b) in order to avoid repeating regulatory language adequately covered by other provisions of the rules. The "Scope" paragraph is unnecessary because the succeeding paragraphs describe the persons to whom the rule would be applicable. Similarly, the prohibition in existing § 785.19(b) against mining without a permit is also covered elsewhere in the rules.

Identification of Alluvial Valley Floors—Proposed § 785.19(a)

Existing § 785.19(c) enables the operator to obtain a determination of the existence of an alluvial valley floor prior to submittal of the permit application. Unfortunately, in every situation it requires a plethora of information to be submitted for the regulatory authority to base its determination of the existence of an AVF. This includes results of a field investigation of the proposed mine plan

area and adjacent area. The investigation has to include detailed geologic, hydrologic, land use, and soils and vegetation studies. The studies have to include maps of unconsolidated streamlaid deposits holding streams, maps of streams, surface watersheds, flood plains, terraces, maps of land subject to agricultural activity, etc. In addition, documentation based on environmental monitoring, measurements, and representative sampling is required, together with infrared aerial photographs.

Existing § 785.19(c) would be renumbered as § 785.19(a). OSM proposes to amend this section by deleting the unnecessary detailed technical information and study requirements. The proposed changes do not alter the requirement that adequate data and analysis are required to support an alluvial valley floor determination by the regulatory authority. The primary difference is that the proposed rules allow the regulatory authority to adjust the type of information and level of analysis to better reflect site-specific conditions. The enumeration of the specific types of maps, monitoring, documentation, and photographs that has to be included in all studies would be eliminated. OSM believes this change would result in substantial time and cost savings in those situations where the presence or absence of an alluvial valley floor is obvious and not controversial. A new § 785.19(a)(3) is proposed to clarify that, if alluvial valley floor areas are not identified, the applicant could complete the permit application process without further consideration of § 785.19.

Applicability of Statutory Exclusions—Proposed § 785.19(b)

The existing rules require that a complete permit application for mining operations be filed, including all hydrologic data, before the regulatory authority makes a determination of the applicability of the various statutory exclusions. In some cases, this procedure creates an unnecessary amount of uncertainty and expense for the applicant and does not contribute to a higher level of environmental protection of the alluvial valley floor.

OSM is proposing to change the procedure. If the regulatory authority were to determine that an alluvial valley floor is present, proposed § 785.19(b) would provide that the operator may request that the regulatory authority make a determination of the applicability of the exclusions of section 510(b)(5) of the Act. The operator would have to submit sufficient data,

information, and analysis to the regulatory authority to support the determination, and the regulatory authority could make the determination, based on this supporting material. If the regulatory authority were to need further information to determine whether the exclusions apply, it could request additional data collection and analysis, including submittal of a complete permit application.

The exclusions of section 510(b)(5) of the Act would be set forth in proposed § 785.19(b)(2). The first exclusion, for undeveloped rangeland that is not significant to farming, would be set forth in proposed § 785.19(b)(2)(i). The second exclusion, in proposed § 785.19(b)(2)(ii), would apply to small acreage with negligible impact on a farm's agricultural production.

The previous test for compliance with the small acreage exclusion was set forth in the now suspended § 785.19(e)(2) which provided:

The effect of the proposed operations on farming will be concluded to be significant if they would remove from production, over the life of the mine, a proportion of the farm's production that would decrease the expected annual income from agricultural activities normally conducted at the farm.

The February 26, 1980, district court decision, referenced previously in "II. Background" of this preamble, held that this test was inconsistent with the Act because even interference with a small number of acres, a situation in which the Act does not intend mining to be precluded, may result in a decrease in a farm's income.

Under the proposal, negligible impact on a farm's agricultural production would be determined by the aggregate production over the life of the mine based upon typical farming practices in the region. OSM believes that a time frame needs to be defined to measure the impact and that the expected life of the mine is the most reasonable and accurate one. Consideration of impacts over such an extended period would reduce errors in measurement associated with normal expected fluctuations in a farm's annual output.

The statement of what constitutes a farm would be moved from existing § 785.19(e)(4) to proposed § 785.19(b)(3), but would remain unchanged. Comments are requested as to whether it is necessary for the rules to prescribe what a farm consists of or whether the regulatory authority can set its own guidelines.

The proposed exclusion would also provide that a mining operation could have negligible impact on farming with regard to land on which no farming exists in those cases where farming is

already precluded because of physical or economic considerations based on regional agricultural practices. For example, if an AVF were to exist in a physically isolated location in which it would be completely uneconomical to develop and establish any agricultural activity common to the surrounding region, then farming would already be effectively precluded and a proposed mining operation would have negligible impact on farm production. The exclusion would apply even if physically the land could support farming. (In this latter example, the undeveloped rangeland exception would probably also apply.)

The third regulatory exclusion from the requirements of section 510(b)(5) of the Act, referenced in proposed § 785.19(b)(2)(iii), would account for the proviso in section 510(b)(5) of the Act and its extension in the proviso in section 506(d)(2) of the Act. Rather than having the substance of the provisos repeated a number of times in the rules, proposed § 785.19(b)(2)(iii) would cross-reference proposed § 822.12(c), the section which describes the provisos. The substance of the two provisos was described in the "Background" section of this preamble.

Summary Denial of Permit—Proposed § 785.19(c)

If the regulatory authority were to determine under proposed § 785.19(b)(2) that the exclusions of section 510(b)(5) of the Act do not apply to the applicant, the applicant would have a number of choices: (1) Attempt to obtain a permit by meeting the standards of section 510(b)(5) of the Act; (2) withdraw its application; or (3) finally, under new proposed § 785.19(c), request the regulatory authority summarily to deny the permit based on a finding that mining would be precluded under section 510(b)(5) of the Act. Such a denial could enable the applicant to initiate a request for an exchange of land under the coal exchange program required by section 510(b)(5) of the Act without having to file a complete permit application otherwise required by § 785.19. OSM believes that this would be a more logical procedure than currently exists and that its implementation could avoid the problem with the existing rules that could require the operator to collect and submit unnecessary data and analysis.

Contents of Application—Proposed § 785.19(d)

The existing rules in § 785.19(d)(1) provide that once land within the proposed permit area or adjacent area is identified as an alluvial valley floor and

the proposed mining operation may affect an alluvial valley floor or waters that supply alluvial valley floors, the applicant shall submit a complete application for the proposed mining and reclamation operations. The complete application has to include detailed surveys and baseline data required by the regulatory authority for a determination of—

(i) The characteristics of the alluvial valley floor which are necessary to preserve the essential hydrologic functions during and after mining;

(ii) The significance of the area to be affected to agricultural activities;

(iii) Whether the operation will cause, or presents an unacceptable risk of causing, material damage to the quantity or quality of surface or ground waters that supply the alluvial valley floor;

(iv) The effectiveness of proposed reclamation with respect to requirements of the Act and the regulatory program; and

(v) Specific environmental monitoring required to measure compliance with Part 822 during and after mining and reclamation operations.

Existing §§ 785.19(d) (2) and (3) describe in detail the information and surveys required to be submitted as part of the application in addition to the information required for the identification of the AVF's.

The proposed rule would generally retain the above-described requirements of existing § 785.19(d)(1), with a few variations in language to parallel the Act. Existing §§ 785.19(d) (2) and (3) would be removed.

If the regulatory authority would have already determined that any of the statutory exclusions in proposed § 785.19(d)(2) apply, then the applicant would not have to submit information as to whether the proposed operation would interrupt, discontinue, or preclude farming on the AVF or whether it would materially damage the quantity or quality of the surface or ground water supplied to the AVF. However, regardless of whether the exclusions were to apply, the applicant would have to provide data to show that the essential hydrologic functions of the AVF would be preserved throughout the mining and reclamation process.

Proposed § 785.19(d) would not enumerate the technical data, information, and analysis required for a complete permit application, but would continue to require generally that sufficient information be submitted to enable the regulatory authority to make the necessary determinations. Because the determinations would have to be supported, the proposed rules should not

change the level of protection afforded AVF's. The principal difference is that the regulatory authority would have the flexibility to adjust the type of data and level of analysis necessary on which to base its determinations.

Regulatory Authority Determinations—Proposed § 785.19(e)

Existing § 785.19(e) is a confusing section that currently sets forth the findings that have to be made by the regulatory authority to allow mining on or adjacent to an AVF, the applicability of the exclusions of section 510(b)(5) of the Act, and the criteria for determining whether the facts would support particular exclusions.

The corresponding section in the proposal would be substantially shorter than existing § 785.19(e). As described above, the applicability of the exclusions would be covered by proposed § 785.19(b) and need not be contained in proposed § 785.19(e).

Proposed § 785.19(e) would not change the basic requirements for permit approval on or near an AVF and these requirements would be presented in a straightforward and simplified manner that closely parallels the Act. The regulatory authority would have to find that the proposed operations would not interrupt, discontinue, or preclude farming on an AVF and that the quantity and quality of surface and underground waters supplying the AVF would not be materially damaged. The section would provide that these findings would not have to be made if any of the exclusions apply. The regulatory authority would also have to find that the proposed operation would comply with Part 822, including preservation of the AVF's essential hydrologic functions (to be discussed in the next section of this preamble) and the other requirements of the regulatory program.

Performance Standards for Alluvial Valley Floors—Part 822

Part 822 contains performance standards for surface coal mining and reclamation operations on or which affect AVF's in the arid and semiarid regions of the country. Existing § 822.2, which contains the objectives of the part, is proposed to be deleted to eliminate unnecessary repetitive language.

Information Collection—Proposed § 822.10

The proposal would add a new § 822.10 on information collection. It would be a codification of the note currently at the beginning of the part that reflects approval by the Office of Management and Budget of the

information collection requirements of Part 822.

Essential Hydrologic Functions—Proposed § 822.11

Existing § 822.11 implements the performance standard of section 515(b)(10)(F) of the Act that the essential hydrologic functions of AVF's be preserved throughout the mining and reclamation process. It currently has three paragraphs. Paragraph (a) of existing § 822.11 establishes the statutory standard of preserving essential hydrologic functions for AVF's not in the affected area. Paragraph (b) of the existing section, recognizing that mining operations would cause disturbances, requires surface coal mining and reclamation operations to reestablish the essential hydrologic functions for AVF's within the affected area. Both existing §§ 822.11 (a) and (b) require the maintenance or reestablishment of the geologic, hydrologic, and biologic characteristics that support the essential hydrologic functions. Existing § 822.11(c) is an explanation of the supporting geologic, hydrologic, and biologic characteristics.

OSM proposes several changes to § 822.11 to make it shorter and to make it more understandable. Proposed §§ 822.11 (a) and (b) would be similar to their existing counterparts. In the proposed paragraphs reference to the statutory language of minimizing disturbance to the hydrologic balance would be included in order to clarify the context in which this requirement was developed by Congress. The term affected area would be replaced with the term minesite and associated offsite areas which has a more definite meaning and is the language used in section 515(b)(10) of the Act. Reference to the particular characteristics that have to be maintained would be eliminated. OSM believes that reference to the particular characteristics is unnecessary because the essential hydrologic function of the alluvial valley floor can be protected without preserving the exact geologic, hydrologic, and biologic conditions. Further, maintenance of such characteristics would not necessarily insure that the essential hydrologic functions are preserved. Existing paragraph (c), which explains these characteristics, would be removed entirely.

Existing and proposed § 822.11 apply to all alluvial valley floors, irrespective of the area's significance to farming. The concern of Congress for alluvial valley floors that would be mined or affected by adjacent mining was that long term permanent damage not be caused to the

AVF's hydrologic system. Recognizing that total prevention of hydrologic effects from mining was impossible, Congress required minimization of the effects (including those on the hydrologic function of alluvial valley floors) to assure the impacts "are not irreparable" (H. Rept. No. 95-218, cited previously, p. 110). Thus, the purpose of § 822.11 is the longer term protection of essential hydrologic functions while the shorter term effects on agricultural activities on alluvial valley floors is protected by the "materially damage" requirements of Section 510(b)(5) of the Act implemented by § 822.12 of the rules.

The existing rules often confuse protection of the hydrologic functions of alluvial valley floors with the physical characteristics of those valley floors. While in some cases the physical characteristics must be recreated to reestablish a certain function, such as water storage, in other situations the function of the alluvial valley floor may be preserved by an alluvial valley floor with slightly different physical characteristics. The proposed rules would recognize this difference.

Protection of Agricultural Activities—Proposed § 822.12

Existing § 822.12 implements the requirements of section 510(b)(5) of the Act that surface coal mining operations should not interrupt, discontinue, or preclude farming and should not materially damage the quantity and quality of surface or underground waters supplying AVF's. However, in existing § 822.12 the undeveloped rangeland and small acreage exclusions are applied in a manner inconsistent with the February 26, 1980, district court decision, described in the "Background" section of this preamble.

The exclusions in the provisos of sections 510(b)(5) and 506(d)(2) of the Act are also implemented, albeit imprecisely, in existing § 822.12(d). Existing § 822.12(d) incorrectly limits the applicability of the section 510(b)(5) proviso to lands which were identified in a reclamation plan approved by the State prior to August 3, 1977. This language was inserted in the March 13, 1979, rules (44 FR 15284) in an unsuccessful attempt to implement the proviso of Section (d)(2) of the Act.

In addition to implementing the requirements and exclusions of section 510(b)(5) of the Act, existing §§ 822.12(b) and (c) also require that when environmental monitoring shows that operations are violating the requirements of § 822.12, the operations must cease and remedial actions that

are approved by the regulatory authority must be taken.

OSM proposes to change the title of proposed § 822.12 to "Protection of agricultural activities" to clarify the purpose of the section. The major change to this section would be the reorganization which would implement the February 26, 1980, district court decision. Proposed §§ 822.12(a) and (b) would set forth the requirements of Section 510(b)(5) of the Act, together with the exclusions relating to agricultural activities. Proposed § 822.12(c) would correctly implement the provisos of sections 506(d)(2) and 510(b)(5) of the Act.

The requirement to cease mining and to take remedial action contained in existing §§ 822.12(b) and (c) would be deleted. Contrary to the statement in the March 13, 1979, *Federal Register* preamble adopting these requirements (44 FR 15283), OSM believes that such requirements are not necessary to make clear the duty of the regulatory authority and the permittee.

These responsibilities are adequately stated in 30 CFR 786.29 which requires a permittee to take all possible steps to minimize any adverse impact on the environment resulting from any term or condition of the permit. Such steps include the immediate implementation of measures necessary to comply. If the only means for the permittee to comply with the terms or conditions of the permit is to cease mining, the permittee must cease mining under § 786.29.

Protection of Agricultural Uses— Existing § 822.13

Existing § 822.13 requires the reestablishment of agricultural utility and levels of productivity of AVF's in affected areas. OSM proposes to delete § 822.13 because the existing section is unnecessary. The postmining land use provision in §§ 816.133 and 817.133 already necessitate the restoration of the land to the same capability as existed before mining. Also, the revegetation rules in §§ 816.111 through 816.117 and §§ 817.111 through 817.117 and, to the extent applicable, the prime farmland rules of 30 CFR Part 823 require the reestablishment of agricultural utility. Finally, the requirements of sections 510(b)(5) and 510(b)(10)(F) would assure the protection of agricultural uses.

Monitoring—Proposed § 822.13

Existing § 822.14 requires the establishment and maintenance of an environmental monitoring system on AVF's during surface coal mining and reclamation operations and continuation until all bonds are released.

Existing § 822.14 would be renumbered as proposed § 822.13. The basic monitoring scheme would be retained. OSM proposes changes to clarify that the requirements for monitoring on AVF's should parallel the requirements of sections 510(b)(5) and 515(b)(10)(F) of the Act.

IV. Procedural Matters

National Environmental Policy Act

OSM has prepared an Environmental Assessment (EA) of the cumulative impacts on the human environment of this rulemaking and related rulemakings under the Act. This cumulative EA is on file in the OSM Administrative Record at the address listed in the "Addresses" section of this preamble. OSM is also preparing a supplemental environmental impact statement that will consider this proposed rule. (See 47 FR 18920, May 3, 1982.)

Executive Order 12291

The Department of the Interior has determined that this document is not a major rule and does not require a regulatory impact analysis under Executive Order 12291.

Regulatory Flexibility Act

These rules have also been examined pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, and OSM has determined that the proposed rules do not have significant economic impact on a substantial number of small entities. The proposed rule is expected to ease the regulatory burden on small coal operators by giving the State regulatory authorities the discretion of reducing the amount of information that will have to accompany each permit application.

Federal Paperwork Reduction Act

The information collection requirements in existing 30 CFR 785.19 and 822.14 were approved by the Office of Management and Budget (OMB) under 44 U.S.C. 3507 and assigned new clearance numbers on April 1, 1981. These approvals were identified in the "Note" paragraphs at the introduction to Parts 785 and 822 under the old numbers RO610 and RO620 (B-190462). The new numbers are 1029-0040 and 1029-0049, respectively. OSM is proposing to remove the "Note" paragraphs and to codify the OMB approvals for the existing requirements under new §§ 785.10 and 822.10. The information required by §§ 785.19 and 822.14 is being collected to meet the requirements of sections 510(b)(5) and 515(b)(10)(F) of the Act, which protect alluvial valley floors from the adverse effects of surface coal mining operations. The

information required by § 785.19 will be used to give the regulatory authority a sufficient baseline upon which to assess the impact of the proposed operation during the permanent regulatory program. The recordkeeping requirements in proposed § 822.13 will measure compliance with performance standards during and after mining operations. The obligation to respond is mandatory.

The amendments to these requirements will be submitted to the Office of Management and Budget for approval as required by 44 U.S.C. 3507.

List of Subjects

30 CFR Part 701

Coal mining, Law enforcement, Surface mining, Underground mining.

30 CFR Part 785

Coal mining, Reporting requirements, Surface mining, Underground mining.

30 CFR Part 822

Coal mining, Environmental protection, Surface mining, and Underground mining.

Accordingly, 30 CFR Parts 701, 785, and 822 are proposed to be amended as set forth below.

Dated: May 27, 1982.

Daniel N. Miller, Jr.,

Assistant Secretary, Energy and Minerals.

PART 701—PERMANENT REGULATORY PROGRAM

1. Section 701.5 is amended by revising the following definitions (two alternatives are given for the definition of "essential hydrologic functions"; only one definition will be adopted):

§ 701.5 Definitions.

* * * * *

Agricultural activities means, with respect to alluvial valley floors, the use of any tract of land for the production of animal or vegetable life, based on regional agricultural practices, where the use is enhanced or facilitated by subirrigation or flood irrigation. These uses include, but are not limited to, the pasturing, grazing or watering of livestock, and the cropping, cultivation, or harvesting of plants whose production is aided by the availability of water from subirrigation or flood irrigation. These uses do not include agricultural activities which have no relationship to the availability of water from subirrigation or flood irrigation practices.

* * * * *

(Alternative 1)

Essential hydrologic functions means the role of an alluvial valley floor in collecting, storing, regulating, and making the natural flow of surface or ground water, or both, usefully available for agricultural activities by reason of the valley floor's topographic position, the landscape, and the physical properties of its underlying materials. A combination of these functions provides a water supply during extended periods of low precipitation.

(Alternative 2)

Essential hydrologic functions means, with respect to alluvial valley floors—

(1) During the mining process, the maintenance of water balance both upstream and downstream of surface coal mining operations so that the natural vegetation cover is not destroyed and the erosional balance of the area is not seriously disrupted, and

(2) Upon the completion of mining, the reestablishment of the premining capability of an alluvial valley floor to collect, store, regulate, and make the natural flow of surface or ground water, or both, usefully available.

Materially damage the quantity and quality of water means, with respect to alluvial valley floors, to degrade or reduce by surface mining and reclamation operations the water quantity and quality supplied to the alluvial valley floor to the extent that resulting changes would significantly decrease the capability of the alluvial valley floor to support agricultural activities.

Subirrigation means, with respect to alluvial valley floors, the supplying of water to plants from underneath or from a semisaturated or saturated subsurface zone where water is available for use by vegetation.

Unconsolidated streamlaid deposits holding streams means, with respect to alluvial valley floors, all flood plains and terraces located in the lower portions of topographic valleys which contain perennial, intermittent, or ephemeral streams.

(Pub. L. 95-87, 30 U.S.C. 1201 *et seq.*)

PART 785—REQUIREMENTS FOR PERMITS FOR SPECIAL CATEGORIES OF MINING

2. Section 785.19 is revised to read as follows:

§ 785.19 Surface coal mining and reclamation operations on areas or adjacent to areas including alluvial valley floors in the arid or semiarid areas west of the 100th meridian.

(a) *Alluvial valley floor determination.* (1) Permit applicants who propose to conduct surface coal mining and reclamation operations within a valley holding a stream or in a location where the adjacent area includes any stream in the arid or semiarid regions of the United States, as an initial step in the permit process, shall request the regulatory authority to make an alluvial valley floor determination with respect to that valley floor. The applicant shall demonstrate and the regulatory authority shall determine, based on either available data or field studies submitted by the applicant, or a combination of available data and field studies, the presence or absence of an alluvial valley floor. Studies shall include sufficiently detailed geologic, hydrologic, land use, soils, and vegetation data and analysis to demonstrate the probable existence of an alluvial valley floor in the potentially impacted area. The regulatory authority may require additional data collection and analysis or other supporting documents, maps, and illustrations in order to make the determination.

(2) The regulatory authority shall make a written determination as to the extent of any alluvial valley floors within the area. The regulatory authority shall determine that an alluvial valley floor exists if it finds that—

(i) Unconsolidated streamlaid deposits holding streams are present; and

(ii) There is sufficient water available to support agricultural activities as evidenced by—

(A) The existence of current or historical flood irrigation in the area in question;

(B) The capability of an area to be flood irrigated, based on typical regional agricultural practices, streamflow water yield, soils, water quality, and topography; or

(C) Subirrigation of the lands in question derived from the ground-water system of the valley floor.

(3) If the regulatory authority determines in writing that an alluvial valley does not exist pursuant to § 785.19(a)(2), no further consideration of this section is required.

(b) *Applicability of statutory exclusions.* (1) If land within the proposed permit area or adjacent area is identified as an alluvial valley floor pursuant to § 785.19(a)(2) and the proposed mining operation may affect

this alluvial valley floor or waters that supply alluvial valley floors, the applicant may request the regulatory authority to separately determine the applicability of statutory exclusions as part of the permit application process. The regulatory authority may make such a determination based on the available data and applicant-submitted data, may require additional data collection and analysis in order to make the determination, or may require the applicant to submit a complete permit application and not make the determination until after the complete application is evaluated.

(2) The regulatory authority shall determine that the exclusions apply if—

(i) The potentially impacted area on the alluvial valley floor is undeveloped rangeland which is not significant to agricultural activities;

(ii) Any farming on the potentially impacted area on the alluvial valley floor that would be interrupted, discontinued, or precluded is of such small acreage as to be of negligible impact on the farm's agricultural production. Negligible impact on the farm's agricultural production shall be determined by the aggregate change in the relative value or output of the agricultural production over the life of the mine, based upon typical farming practices in the region. If no farming exists on the AVF, negligible impact on farming can be determined if farming is precluded already because of physical or economic considerations based on regional agricultural practices; or

(iii) The circumstances set forth in § 822.12(c) of this chapter exist.

(3) For the purposes of this section, a farm is one or more land units on which agricultural activities are conducted. A farm is generally considered to be the combination of land units with acreage and boundaries in existence prior to August 3, 1977, or, if established after August 3, 1977, with those boundaries based on enhancement of the farm's agricultural productivity and not related to surface coal mining operations.

(c) *Summary denial.* If the regulatory authority determines that the statutory exclusions are not applicable and that any of the required findings of § 785.19(e)(1) cannot be made, the regulatory authority may, at the request of the applicant, determine that mining is precluded on the proposed permit area and deny the permit without the applicant filing any additional information required by this section.

(d) *Application contents for operations affecting designated alluvial valley floors.* (1) If land within the potentially impacted area is identified

as an alluvial valley floor and the proposed mining operation may affect an alluvial valley floor or waters supplied to an alluvial valley floor, the applicant shall submit a complete application for the proposed mining and reclamation operations to be used by the regulatory authority together with other relevant information as a basis for approval or denial of the permit. If an exclusion of Paragraph (b) of this section applies, then the applicant need not submit the information required in paragraphs (d)(2)(ii) and (iii) of this section.

(2) The complete application shall include detailed surveys and baseline data required by the regulatory authority for a determination of—

(i) The characteristics of the alluvial valley floor which are necessary to preserve the essential hydrologic functions throughout the mining and reclamation process;

(ii) Whether the operation will avoid during mining and reclamation the interruption, discontinuance, or preclusion of agricultural activities on the alluvial valley floor;

(iii) Whether the operation will cause material damage to the quantity or quality of surface or ground waters supplied to the alluvial valley floor;

(iv) Whether the reclamation plan is in compliance with requirements of the Act, this chapter, and the regulatory program; and

(v) Whether the proposed monitoring system will provide sufficient information to measure compliance with Part 822 of this chapter during and after mining and reclamation operations.

(e) *Findings.* (1) No permit or permit revision application for surface coal mining and reclamation operations on lands located west of the 100th meridian west longitude shall be approved by the regulatory authority unless the application demonstrates and the regulatory authority finds in writing, on the basis of information set forth in the application, that—

(i) The proposed operations would not interrupt, discontinue, or preclude farming on an alluvial valley floor;

(ii) The proposed operations would not materially damage the quantity and quality of water in surface and underground water systems that supply alluvial valley floors which are included in paragraph (e)(1)(i) of this section; and

(iii) The proposed operations would comply with Part 822 of this chapter and the other applicable requirements of the Act and the regulatory program.

(2) The finding of paragraphs (e)(1) (i) and (ii) of this section are not required with regard to alluvial valley floors to which are applicable any of the

exclusions of paragraph (b)(2) of this section.

(Pub. L. 95-87, 30 U.S.C. 1201 *et seq.*)

3. Part 822 is revised to read as follows:

PART 822—SPECIAL PERMANENT PROGRAM PERFORMANCE STANDARDS—OPERATIONS IN ALLUVIAL VALLEY FLOORS

Sec.

822.1 Scope.

822.10 Information collection.

822.11 Alluvial valley floors: Essential hydrologic functions.

822.12 Alluvial valley floors: Protection of agricultural activities.

822.13 Alluvial valley floors: Monitoring.

Authority: Pub. L. 95-87, 91 Stat. 445 (30 U.S.C. 1201 *et seq.*).

§ 822.1 Scope.

This part sets forth additional requirements for surface coal mining and reclamation operations on or which affect alluvial valley floors in the arid and semiarid regions of the country.

§ 822.10 Information collection.

The information collection requirements contained in § 822.13 have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance number 1029-0049. The information is being collected to meet the requirements of sections 510(b)(5) and 515(b)(10)(F) of the Act which provide the information collection requirements and performance standards for alluvial valley floors. This information will be used to enable the regulatory authority to assess the impact of the proposed operation during the permanent regulatory program. The obligation to respond is mandatory.

§ 822.11 Alluvial valley floors: Essential hydrologic functions.

(a) The operator of a surface coal mining and reclamation operation shall minimize disturbances to the hydrologic balance in associated offsite areas by preserving throughout the mining and reclamation process the essential hydrologic functions of an alluvial valley floor outside the minesite.

(b) The operator of a surface coal mining and reclamation operation shall minimize disturbances to the hydrologic balance at the minesite by reestablishing throughout the mining and reclamation process the essential hydrologic functions of alluvial valley floors.

§ 822.12 Alluvial valley floors: Protection of agricultural activities.

(a) Surface coal mining and reclamation operations shall not

interrupt, discontinue, or preclude farming on alluvial valley floors, unless—

(1) The premining land use is undeveloped rangeland which is not significant to agricultural activities; or

(2) The area of affected alluvial valley floor is small and provides or may provide negligible support for production from one or more farms over the life of the mine.

(b) Surface coal mining and reclamation operations shall not cause material damage to the quantity or quality of water in surface or underground water systems that supply alluvial valley floors protected under paragraph (a) of this section.

(c) Paragraphs (a) and (b) of this section do not apply—

(1) To any surface coal mining and reclamation operation that, in the year preceding August 3, 1977—

(i) Produced coal in commercial quantities and was located within or adjacent to an alluvial valley floor; or

(ii) Obtained specific permit approval by the regulatory authority to conduct surface coal mining and reclamation operations within an alluvial valley floor; or

(2) To any land that is the subject of an application for renewal or revision of a permit issued pursuant to the Act which is an extension of the original permit, insofar as (i) the land was previously identified in a reclamation plan submitted under either Part 780 or 784 of this chapter, and (ii) the original permit area was excluded from the protection of paragraphs (a) and (b) of this section for a reason set forth in paragraph (c)(1) of this section.

§ 822.13 Alluvial valley floors: Monitoring.

(a) A monitoring system shall be installed, maintained, and operated by the permittee on all alluvial valley floors during surface coal mining and reclamation operations and continued until all bonds are released in accordance with Part 807 of this chapter. The monitoring system shall provide sufficient information to allow the regulatory authority to determine that—

(1) The essential hydrologic functions of alluvial valley floors are being preserved and/or reestablished throughout the mining and reclamation process in accordance with § 822.11;

(2) Agricultural activities on lands protected under § 822.12 are not being interrupted, discontinued, or precluded; and

(3) The operation is not causing material damage to the quantity and quality of water in the surface or underground systems that supply

alluvial valley floors protected under § 822.12.

(b) Monitoring shall be conducted at adequate frequencies to indicate long-term trends that could affect compliance with §§ 822.11 and 822.12.

(c) All monitoring data collected and analyses thereof shall routinely be made available to the regulatory authority.

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Part V

Department of Agriculture

Food and Nutrition Service

Food Stamp Program; Food Stamp
Administrative Matching Grants: Final
Rules

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 277

[Amdt. No. 201]

Food Stamp Program; Food Stamp Administrative Matching Grants

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule contains requirements for the claiming of Federal financial participation (FFP) in Food Stamp Administrative Grants.

Reductions in fraud, waste, abuse, and error rates as well as other improvements toward efficient and effective administration of the Food Stamp Program may be achieved by States through improved use of automated systems. Accordingly, incentive for States to design and implement such systems for food stamp operations authorized by the 1980 Amendments to the Food Stamp Act, is being offered by raising the FFP for developing these systems to 75 percent.

DATES: This final rule is effective July 12, 1982. Funding for systems planning, design, development, or installation is available retroactive to October 1, 1980 for approved costs incurred after that date.

FOR FURTHER INFORMATION CONTACT:

Joan G McAndrew, Chief, Analysis Section, Program Policy and Analysis Branch, State Operations Division (phone 703-756-3581) on questions pertaining to program functional standards or William E. Mothorpe, Director, State Financial Control Division (phone 703-756-3850) on all other matters.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Executive Order 12291 and has been classified "not major". The rule will not have an effect upon the economy of \$100 million, will not result in major increase in costs or prices, and will not have significant adverse effects on competition, employment, investment, productivity, innovation, or foreign trade.

The rule has also been reviewed with regard to the requirements of Pub. L. 96-354. The Administrator of the Food and Nutrition Service (FNS) has certified that the rule does not have significant economic impact on a substantial number of small entities. The rule includes State and local planning requirements but only at the option of the State. It establishes conditions under

which, at their option, States may apply for an enhanced level of Federal funding (75 percent) for the planning, design, development, or installation of automatic data processing and information retrieval systems to provide more efficient and effective administration of the Food Stamp Program. The trend at this time is toward Statewide development of systems projects, and away from county or local area systems. Therefore, the impact of the requirements of this rule should be felt by only a small number of local jurisdictions.

The reporting burden contained in § 277.18(a) has been reviewed and approved by the Office of Management and Budget (OMB) and given OMB number 40-R 5018.

Background

The Department published a proposed rule on August 11, 1981, (46 FR 40764) to implement Section 129 of Pub. L. 96-249 which allowed increased Federal cost sharing for States' planning, designing, developing, or installing automated systems from 50 percent to 75 percent. These systems, in order to be funded at the enhanced rate, must assist States in meeting the requirements of the Act, meet such conditions as the Secretary prescribes, provide more efficient and effective administration of the Program, and be compatible with systems used to administer Aid to Families With Dependent Children (AFDC).

Funding was to be made available as of October 1, 1980. Approval of enhanced Federal financial participation (FFP) depends upon (a) FNS approval of a State Plan of Operations which contains a State agency's expression of intent, and (b) FNS approval of the proposed plan for system development or Advanced Planning Document (APD) for systems funding as required by Appendix A of Part 277.

The Department received a total of 21 comment letters from State agencies, private industry, FNS Regional Offices, other Federal agencies, and a public interest group. This preamble discusses changes made in the final rule which result from comments received. We have also clarified several points where commenters expressed confusion. The rationale contained in the August 11 proposed rule should be regarded as the basis for the final rule, where the rule is unchanged.

General Concerns

Several commenters expressed confusion over definitions of various terms used in the proposed regulation. Seven comments related to clarification for terms like upgrade, modification,

new system, planning, design, development, installation and operations. Some of these definitions are already included in either Appendix A to Part 277 or in Financial Management handbooks already in use within the Agency. Therefore, we intend to add any definitions necessary to the FNS Handbook 151 (ADP Advance Planning Document Handbook for State Agencies).

Retroactive Funding

The enabling legislation provided that enhanced funding at 75 percent could be paid to States effective October 1, 1980. Our intent to do so was stated in the preamble of the proposed rule. However, five commenters expressed concern that the subject should be clearly presented in the final rule (rather than in the preamble) and that the matter of timing should be clarified.

Paragraph (b) has been redesignated as *Funding* in response to the comments received. State agencies which are planning, designing, developing or installing automatic data processing and information retrieval systems which they believe qualify at the higher funding level should seek clarification from FNS Regional Offices. No expenditures which predate October 1, 1980 can be supported at more than the ongoing 50 percent rate.

Functional Standards

The Department proposed that State agencies, in order to receive enhanced funding for their systems development efforts, would have to demonstrate that the automated system would assist in meeting the requirements of the Act and meet certain program functional standards.

Comments on the standards focused on two areas:

(1) *Use of standards to evaluate systems proposals (rather than some other means such as a model system).* Comments relating to the use of standards to evaluate systems proposals were divided. Some commenters felt that the standards were too specific; that States should not have to meet all of the standards in order to qualify for enhanced levels of funding.

Other commenters expressed the opinion that the standards were adequate as proposed. Still others felt that the standards should be even more specific.

The Department feels that general standards are a more appropriate means to promote development than a specific model system design. Our primary objective is to allow maximum flexibility for States designing systems.

We believe that standards are the best means to fulfill this objective. We also believe that it is best to make standards as generic as possible. In this way, new program requirements can be included in existing standards without the need to amend the regulation for each requirement change.

(2) *Specific recommendations on specific standards.* The Department proposed functional standards relating to program requirements for use in evaluating proposed computer systems. These standards were divided into three basic areas: (a) Standards for certification systems, (b) standards for issuance systems, and (c) general standards for all systems. It was not intended in the proposed rule that all States be required to develop total certification and issuance systems. For this reason, the standards applying to each were separated. Some confusion was expressed over whether systems addressing only one of these two areas would be funded. We expect that most systems seeking enhanced funding will be capable of performing both certification and issuance functions. The final rule clarifies, however, that funding for State agencies which may wish to automate certification only or issuance only may be available provided the system is demonstrated to be cost effective, and provided the system meets all applicable elements of the appropriate standards.

(a) *Certification Standards.* Of the 10 elements required of certification, six received some comments, and one (compatibility with AFDC) will be treated separately.

In general the Department adopted suggestions made by commenters regarding standards. Commenters recommended that all casefile information be stored individually for all household members, particularly income information. Language has been added to the regulation to clarify our intention that this information be stored individually.

The Department did not adopt recommendations that some of the proposed administrative processes would be better handled manually. Various commenters addressed this recommendation to the automated tracking of the status of aliens, elderly, disqualified individuals, strikers, and periodic work registration, as well as the automated generation of notices to households.

We do not agree with these commenters. Enhanced funding is specifically aimed at developing the "fullest computerization consistent with cost effectiveness" (House Committee on Agriculture Report on the Food

Stamp Act Amendments of 1980, Report No. 96-788, p. 112). Some systems already in existence are able to track these program areas. We feel that handling these functions manually defeats the purpose of the legislation. Additionally, we believe that requiring systems to store these recipient characteristics will provide a valuable management tool to use in estimating the impact of regulatory changes on various segments of the caseload. Finally, we feel that systems which rely on manual procedures to accomplish functions which should be automated should not be funded at an enhanced level.

The ability of a system to generate notices is dependent upon the particular design of that system. Systems which automatically determine eligibility should be able to generate notices directly to the household. Systems which simply validate a worker calculation may be dependent upon some additional input to generate a notice. The standard should be flexible enough for the State agency to make its own choice.

(b) *Issuance Standards.* Of nine proposed issuance elements, comments were received on seven. The majority centered around reconciliation and reporting. Section 277.18(c)(2) has been redesignated *Issuance, Reconciliation, and Reporting* to more accurately reflect its content.

All but one recommendation by commenters was adopted. One Regional Office (RO) disagreed with the requirement that the system be capable of expedited issuance of benefits to households which qualify.

We do not agree with this. It is important that the system be responsive enough to input to be able to issue benefits in an expedited manner.

Other changes in this section included addition of standards for fiscal management and financial reporting, and sample selection for Management Evaluation reviews. Other standards were expanded, specifically those relating to reconciliation of redeemed Authorization-to-Participate (ATP) cards, reduction or suspension of benefits in the event of a funding shortfall, and changes in benefit levels due to claims collection or restored benefits.

There is a requirement, in the proposed rule, for the system to have the capability to crosscheck for duplicate participation within the jurisdiction. Because of the split between centralized State agencies and county administration of the program, we did not specify what we meant by jurisdiction. The term is dependent (at a

minimum) upon the scope of the system. If the system is Statewide, the system must check across all recipients Statewide. If a county system, the check must include all county recipients, as well as other counties with compatible systems. The final rule has been revised to reflect this clarification.

Finally, commenters suggested that some new standards be added to those already proposed:

(i) We should add a requirement that all certification and issuance computer files be retained. There is already a requirement that certification and issuance files be kept for three years. It is the State's option to keep them in hard copy form, microform or on computer tape. However, we feel it is most likely that States which maintain files on computer tape will keep them either on tape or in microform dependent upon their storage considerations, (ii) We should require that recipient characteristics be stored; (iii) Capability for SSN enumeration should be added; (iv) We should add a requirement for retrospective budgeting; and (v) There should be a requirement that the system produce and store a participation history on each household. We agree with the last four comments and have added these requirements to the final rule.

(c) *General Standards.* Two respondents commented that the required State level management reports should be specified. The Department preferred to allow States the option to decide what kinds of specific reports they find useful under the general categories of caseload, participation and actions. Thus we have not specified what management reports must be generated.

Compatibility

In the proposed regulation, compatibility with AFDC was treated as a functional standard for certification systems (or the certification portion of a system). At that time, we defined compatibility, for non-integrated systems as the capability "to exchange information concerning participation, eligibility, benefits and changes at some mechanized level with any system used in the administration of the AFDC program."

We received thirteen comments on the subject of compatibility. Three of them agreed with the latitude which they saw in the proposed rule. However, some respondents did not agree.

Due to the comments received on this issue, we have further restricted the definition of compatibility. Food stamp systems, in order to be compatible with

AFDC, must be integrated with the AFDC system. Also, since AFDC's enhanced funding legislation limits funding to Statewide systems, requiring food stamp systems to be Statewide would provide for maximum automation consistent with cost-effective use of Federal funds. The Department believes that close coordination with AFDC at this time is consistent with Congressional intent in passing such legislation. Two final benefits to be achieved from such a requirement are the decrease in duplication of effort in developing local systems with a corresponding increase in control over duplicate participation resultant from a Statewide integrated data base. Therefore, the Department is requiring that systems funded under these regulations be statewide and integrated with AFDC, with certain exceptions discussed below.

The Department is reserving the option to fund systems which are exceptions to this rule where the State agency can justify that exception. In some instances, systems which are less than statewide, dedicated to the Food Stamp Program, or less than total certification and issuance systems may prove more cost beneficial than development of a statewide integrated system. Under this exception clause, the Department will be able to fund systems where the State agency can demonstrate to our satisfaction that a local or single function (e.g. issuance only) system is more appropriate to its needs. Therefore, we have redesignated § 277.18(d) as *Compatibility*. Although it is not our intent to prescribe technical details which lay out a model system, we have stated some basic elements which are felt to be appropriate for a compatible system.

Issues Related to Computer Technology and the Systems Approval Process

The paragraph previously designated § 277.18(c) has been redesignated § 277.18(e) *Prior Approval Process*. In this section, we have addressed many respondent concerns about computer technology.

Commenters expressed some confusion concerning the conduct of feasibility studies. The final rule contains additional language concerning feasibility studies, clarifying our intention to require feasibility studies for proposed systems seeking 75 percent funding. These studies require prior FNS approval. Both feasibility study and production of the APD may be funded at the 75 percent level regardless of the final approval or denial of the system itself.

Some commenters expressed concern that States which failed to develop systems in accordance with an approved APD might continue to receive 75 percent funding. They also pointed out that a mechanism for reporting in-progress changes must be provided. We have added language to § 277.18(e)(2) to specify the penalty for failure to comply with an approved APD (suspension of funding), as well as to provide a means of reporting in-progress changes.

Six State agencies and two federal offices expressed concern about differences between developmental and operational activities. Developmental cost(s) should be tied theoretically to benefits obtainable in future time periods. Costs incurred in producing current benefits are considered to be operational costs. Example: System's design and testing are developmental efforts up to the point where the products of this effort are used to process Food Stamp recipient data in actual certification or issuance. The APD budget and approval process must clearly relate time phases during which development may continue and installation will occur. At a point in time when the system includes its database hardware, software, and security, its operation will result in a product (output).

By legislation, systems can only be funded at the 50 percent level for operational costs. When an approved system produces automated processing of food stamp recipient applications, ATP's or other reports, it will be considered operational. The administrative process for approvals must clarify the initial number of days for continuous operation, percentage of accomplishment(s) and benchmark specifics that will result in a determination of "operational". A data base serving 30 geographical areas for information retrieval may be declared operational when it supports a single area. Equipment directly associated, supporting software, and system security may also be operational at that time. Activities not completed in the 29 other geographical areas might continue to be funded for costs at the 75 percent level until each begins operation. While the example is an oversimplification, it does illustrate the administrative and budgetary process anticipated.

Some commenters recommended that controls be added to discourage duplication of design efforts across States. Although we do not want to require, as one commenter suggested, that a State review a specific number of systems prior to beginning development of its own, we do encourage States to

transfer or modify already developed systems as much as possible. Agency handbooks describing the approval process for proposed systems require discussion in the APD of alternatives considered including review of existing systems.

Finally, two commenters expressed concern that FNS improve property management and individual security requirements. We agree with these commenters and specify in the final rule that technological safeguards and managerial procedures must ensure the integrity of the system and individual privacy.

FNS reserves rights to title and use of systems developed with 75 percent funding and to authorize others to use a system for federal purposes.

The provisions of Part 277 Appendix A as regards automatic data processing, APD submissions and approvals, allowable costs, procurement, ownership rights of software and equipment, and Federal financial participation are specifically adopted and are applicable to 75 percent funding for computer development unless otherwise noted.

List of Subjects in 7 CFR Part 277

Food stamps, Government procurements, Grant programs-social programs, Investigations, Records, and Reporting requirements.

PART 277—PAYMENTS OF CERTAIN ADMINISTRATIVE COSTS OF STATE AGENCIES

Accordingly, 7 CFR Part 277 is amended to read as follows:

In § 277.4, paragraph (b)(1) is revised to read as follows:

§ 277.4 Funding.

* * * * *

(b) *Federal Reimbursement Rate(s)*.
(1) A 75 percent Federal reimbursement is payable for Food Stamp Program allowable costs incurred for:

(i) State fraud investigations, prosecutions, and fraud hearings upon presentation and approval of a State Plan Addendum as outlined in § 277.15.

(ii) State agency planning, designing, developing, or installing computerized systems as approved by the Food and Nutrition Service (FNS) and outlined in § 277.18.

* * * * *

A new § 277.18 is added to Part 277 to read as follows:

§ 277.18 Establishment of an Automatic Data Processing (ADP) and Information Retrieval System.

(a) *General.* A State agency may, at its option, receive Federal reimbursement at a 75 percent payment rate for the planning, design, development or installation of automatic data processing and information retrieval systems. An Advance Planning Document (APD) will be submitted to present requests and to document approvals. Except for Fiscal Years 1981 and 1982, a State agency shall first indicate its desire for 75 percent level of funding in corresponding State plans. FNS has issued Handbook 151, ADP Advance Planning Document Handbook for State Agencies, which provides detailed procedural guidelines for document preparation and submission for approval of costs. Additional guidance is contained in Appendix A to this part. The 75 percent funding level may be approved by FNS if the proposed system will:

- (1) Assist the State agency in meeting the requirements of the Act;
- (2) Meet such conditions as prescribed in this section;
- (3) Be likely to provide more efficient and effective administration of the program; and
- (4) Be compatible with other such systems utilized in the administration of State plans under the program of Aid to Families with Dependent Children (AFDC).

(b) *Funding.* Upon approval by FNS Regional Offices (FNSRO) of an APD, State agencies will be funded at the 75 percent rate for expenditures in connection with the approved system. This higher rate may apply retroactively, except that in no instance will such higher level funding be authorized for any costs which predate October 1, 1980.

(c) *Program Functional Standards.* In order to meet the requirements of the Act and ensure the efficient and effective administration of the program, the proposed system, must, at a minimum, meet the following applicable program standards:

- (1) *Certification.* (i) Determine eligibility and calculate benefits or validate the eligibility worker's calculations by processing and storing all casefile information necessary for the eligibility determination and benefit computation, (including but not limited to all household member's names, addresses, dates of birth, social security numbers, individual household members' income by source: Earned and unearned, deductions, resources and household size). Redetermine or revalidate eligibility and benefits based

on notices of change in households' circumstances;

- (ii) Identify other elements that affect the eligibility of household members such as alien status, presence of an elderly person in the household, or status of periodic work registration;
 - (iii) Provide for an automatic cutoff of participation for households which have not been recertified at the end of their certification period;
 - (iv) Notify the certification unit (or generate notices to households) of cases requiring Notices of (A) case disposition, (B) Adverse Action and Mass Change, and/or (C) Expiration;
 - (v) Provide for verification of income by means of comparison with records of other Federal and State programs (AFDC, Medicaid, SDX, BENDEX—benefits and wage data, State Employment Security Agency);
 - (vi) Prior to certification, crosscheck for duplicate cases for all household members by means of comparison with food stamp records within the relevant jurisdiction;
 - (vii) Provide the capability to effect mass changes: Those initiated at the state level, as well as those initiated from changes at the federal level (eligibility standards, allotments, deductions, utility standards, SSI, AFDC, SSA benefits);
 - (viii) Identify cases where action is pending or follow-up must be pursued; for example, households with verification pending or households containing disqualified individuals or a striker;
 - (ix) Calculate or validate benefits based on restored benefits or claims collection, and maintain a record of the changes made;
 - (x) Store information concerning characteristics of all household members;
 - (xi) Provide for Social Security enumeration for all required household members; and
 - (xii) Provide for monthly reporting and retrospective budgeting as required.
- (2) *Issuance, reconciliation and reporting.* (i) Generate authorizations for benefits in issuance systems employing ATP's, direct mail, or online issuance and store all Household Issuance Record (HIR) information including: Name and address of household, household size, period of certification, amount of allotment, case type (PA or NA), name, address of authorized representative, and racial/ethnic data;
- (ii) Prevent a duplicate HIR from being established for presently participating or disqualified households;
 - (iii) Allow for authorized under or over issuance due to claims collection or restored benefits;

(iv) Provide for reconciliation of all transacted ATP's to the HIR masterfile.

This process must incorporate any manually issued ATP's, account for any replacement or supplemental ATP's issued to a household, and identify cases of unauthorized and duplicate participation;

(v) Provide a mechanism allowing for a household's redemption of more than one valid ATP in a given month;

(vi) Generate data necessary to meet Federal issuance and reconciliation reporting requirements, including:

- (A) Issuance
 - (1) FNS-259—Summary of mail issuance and replacements;
 - (2) FNS-250—Reconciliation of redeemed ATP's with reported authorized coupon issuance.
- (B) Reconciliation: FNS-46—ATP Reconciliation Report.
- (vii) Generate data necessary to meet other reporting requirements including:
 - (A) FNS-101—Program participation by race;
 - (B) FNS-256—Report of coupon issuance and participation; and
 - (C) FNS-388—Coupon issuance and participation estimates.
- (viii) Allow for sample selection for quality control reviews of casefiles, and for management evaluation reviews;
- (ix) Provide for program-wide reduction or suspension of benefits and restoration of benefits if funds later become available and store information concerning the benefit amounts actually issued;
- (x) Provide for expedited issuance of benefits within designated timeframes;
- (xi) Produce and store a participation history covering 3 year(s) for each household receiving benefits; and
- (xii) Provide for cut-off of benefits for households which have not been recertified timely.

(3) *General.* The following standards apply to all proposed systems:

- (i) Perform all activities necessary to meet the various timeliness requirements established by FNS;
- (ii) Allow for reprogramming to implement regulatory and other changes including a testing phase to meet implementation deadlines, generally within 90 days;
- (iii) Generate whatever data is necessary to provide management information for the State's own use, such as caseload, participation and actions data;
- (iv) Provide support as necessary for the State's management of Federal funds relative to Food Stamp Program administration, generate information

necessary to meet Federal financial reporting requirements; and

(v) Provide for routine purging of casefiles and file maintenance.

(d) *Compatibility.* (1) State agencies seeking an enhanced level of funding for the planning, design, development or installation of automatic data processing and information retrieval systems must develop statewide systems which are integrated with AFDC. In cases where a State agency can demonstrate that a local, dedicated or single function (issuance or certification only) system will provide for more efficient and effective administration of the program, FNS may grant an exception to the statewide integrated requirement. These exceptions will be based on an assessment of the proposed system's ability to meet the state's needs for automation. Systems funded as exceptions to this rule, however, should be capable to the extent necessary, of an automated data exchange with the state system used to administer AFDC. In no circumstances will funding be available for systems which duplicate other State agency systems, whether presently operational or planned for future development.

(2) The system developed in response to these regulations will contain the following elements, where appropriate:

(i) A data base which receives information, sorts, performs calculations, and stores information;

(ii) An information retrieval system which will have the ability to access the data base, display, or print data and update the data in numerical or alphabetical form;

(iii) Hardware, in addition to that required for the data base, which will include visual display terminal(s) with an attached keyboard, connected to the data base hardware components by telephone lines;

(iv) Software which will include system programs for data recall and input, budget calculations capability when not included in the data base system, printout and display for data entry and inquiry terminals, and for network control; and

(v) Technological safeguards and managerial procedures will be established and applied to computer hardware, software, and data in order to ensure the protection of the integrity of the system and individual privacy (ADP system security). System security shall be inherent in the system and provided for in the APD submitted for approval. The system will process machine readable data files used for the authorized exchange of information between levels of government (i.e., state to state, state to federal).

(e) *Prior Approval Process.* (1) Feasibility studies or advance planning documents which are designed for analysis of future compatible ADP systems are considered management studies and require prior approval by FNS. FNSRO's shall be responsible for approval of requests for 75 percent funding of compatible ADP systems.

(i) A feasibility study is required for approval of funding at the 75 percent level. State agencies may apply for 75 percent funding of a study by letter request which describes the study. State management information systems staff, program staff, cost analysts and other staff officials shall provide input to the final study report.

(ii) An APD may result from a favorable feasibility report. The cost of resources used to produce the APD may be funded at the 75 percent level regardless of final approval or denial of the APD. The APD package will be simultaneously submitted to the appropriate FNSRO and the Assistant Secretary for Management and Budget, Department of Health and Human Services *except* that a single agency APD will be processed by FNSRO to approve 75 percent funding when an exception to the compatible system has been justified, in accordance with paragraph (d)(1) of this section.

(2) Funding of costs for system development and hardware procurement and installation will continue at the 75 percent level when those project phases progress according to the approved APD.

(i) In-progress changes which are not within the scope or context of the originally approved APD and which will result in costs above those projected in the APD and for which 75 percent funding is sought shall be submitted to FNSRO in writing promptly following a decision to change by letter entitled "notice of change and increased cost" which will be considered and responded to promptly by FNSRO.

(ii) If FNS suspends approval of an APD in the course of a State agency's planning, designing, development, or installation, the 75 percent level of funding shall not be allowable for any costs incurred until such time as the conditions for approval are met.

(3) APD's will include cost distribution budgets, presented on a federal fiscal year basis in a clear fashion to associate costs with each developmental piece and/or functional module.

(i) Where costs are incurred for more than one program, these costs will be organized into pools of related administrative activities and allocated on an acceptable basis agreed to in advance by appropriate officials, or

based on a previously approved cost allocation method. The resulting dollar amounts will be funded by FNS along with single program element costs at the 75 percent level.

(ii) Budgets must identify all development costs separately from any ongoing operational costs. Costs must be distinguished by developmental projects and developmental time periods. Actual costs claimed must be reconcilable to projected costs which appeared in the FNS approved budget.

(4) Approval of APD's for payment by FNS of costs at the 75 percent level will be limited to:

(i) Development, *i.e.*, detailing of system and program specifications, programming, and testing;

(ii) Installation, *i.e.*, conversion, training of staff, and turnover to operational status.

(5) Costs may not be funded at 75 percent when the approved system produces automated processing of food stamp recipient applications, issuance authorizations or other reports (operations) on a continuing basis for use by State agency personnel for administration of the Food Stamp Program. Operations includes the use of purchased or rented computer equipment and software directly required for and used in the operation of the automated data processing and information retrieval system. Pilot testing and an initial period of parallel processing for test purposes shall not be considered as operations.

(6) FNS approval of requests for 75 percent funding will provide notification to the State agency of the budget authority and dollar limitations under which such funding may be claimed. FNS shall provide this amount as a total authorization for such funding which may not be exceeded unless amended by FNS. FNS's determination of the amount of this authorization will be based on the budget submitted by the State agency. Activities not included in the approved budget, as well as continuation of approved activities beyond scheduled deadlines in the approved plan, shall require FNS approval of an amended State budget for payment. Requests to amend the budget authorization approved by FNS must be submitted to the FNSRO prior to claiming such expenses at the 75 percent level.

(7) The complete system and hardware acquired, will be used for a period of time which is consistent with the APD as approved, or which FNS determines is sufficient to justify the related expenditure of federal funds.

(f) *Cost Elements.* Incident to the activities listed in paragraph (e) of this section, a State agency may seek payment for the following expenses at a 75 percent level:

(1) *Personnel.* Salaries, wages, travel, and benefits of personnel actually engaged in design, development, or installation of approved ADP systems;

(2) *Materials, Equipment, Facilities, and Supplies.* Costs of materials, equipment, facilities and supplies used in design, development, or installation of approved ADP systems. Only the proportionate share of the costs of capital assets assignable to the period of time or prorated for usage may be claimed during the design, development, or installation of these systems. This share must be determined based on acquisition costs and/or depreciation or approved usage rates. Data with respect to such costs shall be submitted with the request for funding;

(3) *Contracted Services.* Services obtained under the provisions of contracts which meet the procurement standards of this part for the design, development, or installation of FNS approved systems;

(4) *Management Studies and Other Planning.* The proportionate share of the costs of a feasibility study and preparation of APD's.

(g) *Cost Determination.* Actual costs must be determined in compliance with an FNS approved budget and Appendix A to this part, and must be reconcilable with the FNS funding level. There shall be no payments pursuant to this section to the extent that a State agency is reimbursed for such costs pursuant to any other federal program or uses ADP systems for purposes not connected with the Food Stamp Program. The cost allocation plan must be amended to disclose the methods which will be used to identify and classify costs to be claimed at the 75 percent rate. This methodology must be submitted to the appropriate FNSRO as part of the request for FNS approval of funding at the 75 percent rate as required in Appendix A to this part. Any costs matched pursuant to these regulations shall be excluded in determining the State agency's administrative costs under any other section of this part.

(h) *Specifications.* Specification for system hardware components, software, and services purchased from commercial suppliers or individuals will be submitted to FNS for review as part of the APD.

(1) The management of contracting and contract administration procedures is to be accomplished according to the state's own policies and the provisions

of § 277.14. Procurement actions not in accordance with the procurement standards set forth in § 277.14 shall not be funded at the 75 percent level.

(2) The State will have all ownership rights in software or modifications thereof and associated documentation designed or developed with 75 percent FNS funding under this section, except that FNS reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish, or otherwise use and to authorize others to use for federal purposes, such software, modifications, and/or documentation.

(3) The policies and procedures governing title, use and disposition of property purchased with Food Stamp Program funds, which are covered in § 277.13 are applicable to automatic data processing equipment purchased with enhanced funding.

(91 Stat. 958 (7 U.S.C. 2011-2027))

(Catalog of Federal Domestic Assistance Programs No. 10.561 State Administrative Matching Grants for Food Stamp Program)

Dated: June 9, 1982.

Samuel J. Cornelius,
Administrator.

[FR Doc. 82-15926 Filed 6-10-82; 8:45 am]

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Friday, June 11, 1982

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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
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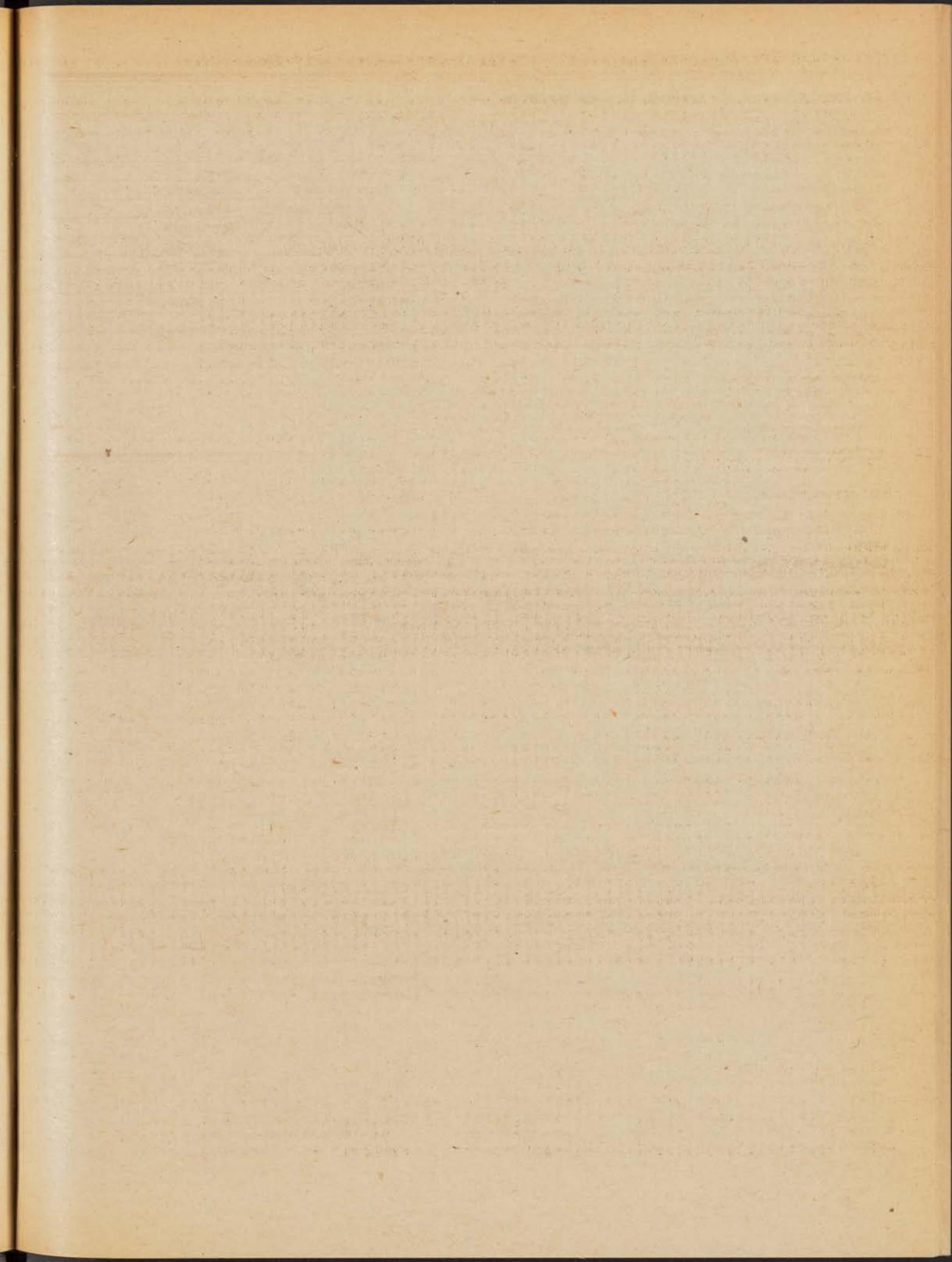
Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday. Comments on this program are still invited.

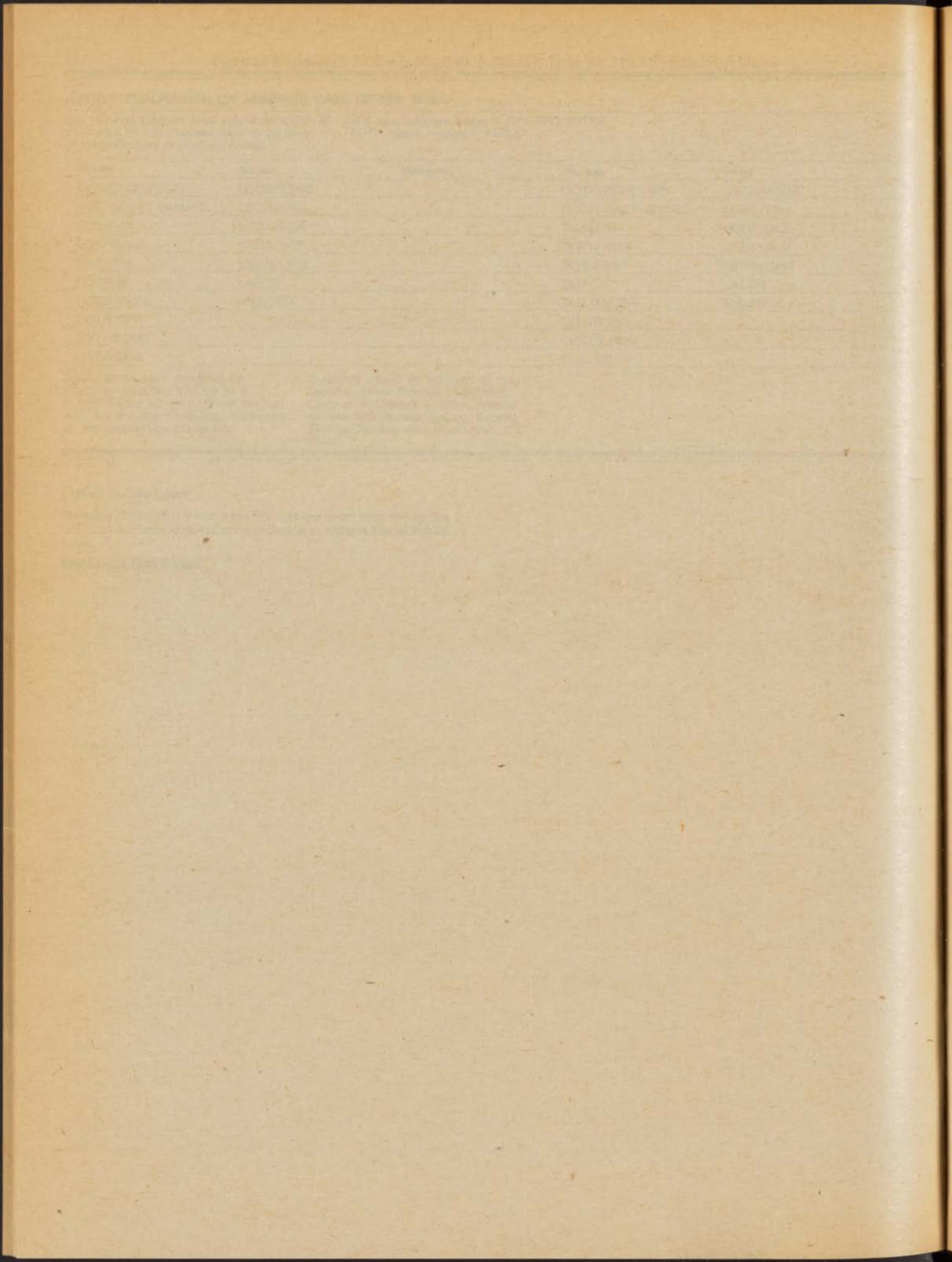
Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

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**.

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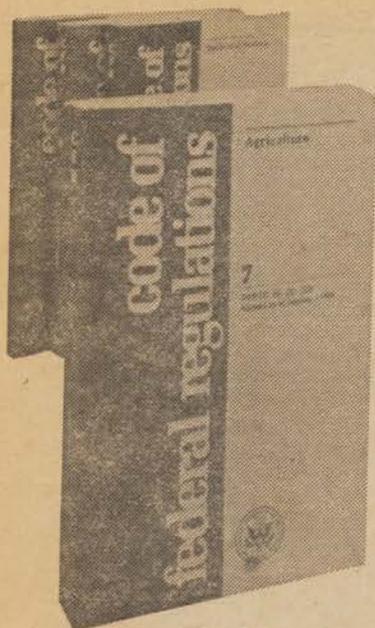
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