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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/COAST GUARD	USDA/ASCS		DOT/COAST GUARD	USDA/ASCS
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CSA	CSC		CSA	CSC
	LABOR			LABOR
	HEW/FDA			HEW/FDA

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

NOTE: As of August 14, 1978, Community Services Administration (CSA) documents are being assigned to the Monday/Thursday schedule.

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(The items in this list were editorially compiled as an aid to FEDERAL REGISTER users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.)

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NOTE: There were no items eligible for inclusion in the list of RULES GOING INTO EFFECT TODAY.

List of Public Laws

This is a continuing listing of public bills that have become law, the text of which is not published in the FEDERAL REGISTER. Copies of the laws in individual pamphlet form (referred to as "slip laws") may be obtained from the U.S. Government Printing Office.

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Department of Defense Appropriation Authorization Act, 1979. (Oct. 20, 1978; 92 Stat. 1611) Price: \$1.00

H.R. 7843 Pub. Law 95-486
To provide for the appointment of additional district and circuit judges, and for other purposes. (Oct. 20, 1978; 92 Stat. 1629) Price \$.70

H.R. 14026 Pub. Law 95-487
To provide means for the acquisition and retention of title to certain lands by the village corporation organized pursuant to the Alaska Native Claims Settlement Act for the Natives of the Village of Kake, Alaska, and for other purposes. (Oct. 20, 1978; 92 Stat. 1635) Price \$.60

H.R. 13167 Pub. Law 95-488
To amend the Internal Revenue Code of 1954 to insure that the deduction for contributions to a black lung benefit trust be allowed for any such contributions which are made for the purpose of satisfying unfunded future liability, and for other purposes. (Oct. 20, 1978; 92 Stat. 1637) Price: \$.60

H.R. 13803 Pub. Law 95-489
To terminate the authorization of the navigation project on the Columbia Slough, Oregon. (Oct. 20, 1978; 92 Stat. 1639) Price: \$.60

S. 1318 Pub. Law 95-490
To permit the State of Hawaii to use the proceeds from the sale, lease, or other disposition of certain real property for any public purpose. (Oct. 20, 1978; 92 Stat. 1640) Price \$.60

S. 3259 Pub. Law 95-491
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S. 3373 Pub. Law 95-492
To amend title 10, United States Code, to authorize the Secretary of Defense to provide transportation to the Girl Scouts of the United States of America in connection with International World Friendship Events or Troops on Foreign Soil meetings, and for other purposes. (Oct. 20, 1978; 92 Stat. 1642) Price: \$.60

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 A Cumulative List of CFR Sections Affected is published separately at the end of each month. The guide lists the parts and sections affected by documents published since the revision date of each title.

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[3195-01-M]

Title 3—The President

PROCLAMATION 4606

National Family Week, 1978

By the President of the United States of America

A Proclamation

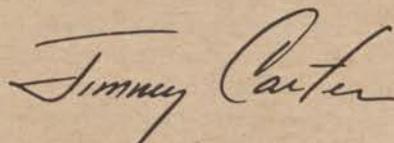
Families differ, but the values of family life are unchanging—warmth, love, compassion, support, and understanding. Families are the building blocks of civilization. Our social and individual achievements, be they great or small, can generally be traced to early family influences. Family values are our most fundamental and lasting heritage.

Changing social patterns have threatened family stability. In today's increasingly complex world it is important to maintain the values and continuity of family life. All families are important, but the extended family, the foster family and the adoptive family play a special role by relieving the isolation of those who lack the comfort of a loving nuclear family.

Thus, National Family Week offers the opportunity to pay special tribute to those who open their homes and provide the warmth of family life to those who would otherwise be alone. We salute all families as we focus attention this week on opportunities to restore their strength and help them meet the challenges of contemporary society.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, in accordance with a joint resolution of Congress, do hereby proclaim the week of November 19, 1978, as National Family Week and call upon the American people to observe this week with appropriate thoughts and actions in their houses and communities.

IN WITNESS WHEREOF, I have hereunto set my hand this twentieth day of October, in the year of our Lord nineteen hundred seventy-eight, and of the Independence of the United States of America the two hundred and third.



[FR Doc. 78-30207 Filed 10-23-78; 10:29 am]

Historical Documents

The [illegible]

National Family Week 1978

[illegible]

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[3195-01-M]

PROCLAMATION 4607

Thanksgiving Day, 1978

By the President of the United States of America

A Proclamation

Since 1621, the people of this country have gathered each year to celebrate with a feast their good fortune in their continuing ability to provide for families and friends.

On this Thanksgiving Day, we reaffirm our faith in our heritage of freedom, and our spirit of sharing.

In the spirit of Thanksgiving, Americans humbly recognize how fortunate we are to be strong—as individuals, and as a nation. It is that strength which allows us to display compassion for those around the world who face difficulties that our forefathers, blessed with the American land, were able to overcome.

While Providence has provided Americans with fertile land and bountiful harvests, other nations and peoples have not been so favored. Each year growing food supplies give us greater cause for giving thanks, yet one person in six worldwide still suffers from chronic hunger and malnutrition.

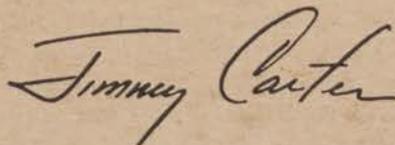
Two hundred years ago the Continental Congress proclaimed a day of thanks, and asked for deliverance from war. This year, let us observe Thanksgiving in the spirit of peace and sharing, by declaring it a day of Thankful Giving, a day upon which the American people share their plenty with the hungry of other lands.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, in accordance with Section 6103 of Title 5 of the United States Code, do proclaim Thursday, the 23rd of November, 1978, as Thanksgiving Day.

I call upon the Governors, Mayors, and all other State and local officials to broaden the observance of Thanksgiving to include the practice of Thankful Giving in their celebration, inviting Americans to share with those abroad who suffer from hunger.

I call upon the American people to make personal donations to religious or secular charities to combat chronic hunger and malnutrition, and to support the concept of Thankful Giving in order that we may one day assure that no individual anywhere will suffer from hunger, and that we may move to a day of universal celebration in a more perfect community within our nation and around the world.

IN WITNESS WHEREOF, I have hereunto set my hand this twentieth day of October, in the year of our Lord nineteen hundred seventy-eight, and of the Independence of the United States of America the two hundred and third.



[FR Doc. 78-30208 Filed 10-23-78; 10:30 am]

Thanksgiving Day 1978

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[3195-01-M]

Memorandum of October 20, 1978

Determination Under Section 202(b) of the Trade Act, Unwrought, Unalloyed Copper

Memorandum for the Special Representative for Trade Negotiations

THE WHITE HOUSE,
October 20, 1978.

Pursuant to section 202(b)(1) of the Trade Act of 1974 (P.L. 93-618, 88 Stat. 1978), I have determined the action I will take with respect to the report of the United States International Trade Commission (USITC), transmitted to me on August 23, 1978, concerning the results of its investigation of a petition for import relief. This petition was filed by the Anaconda Co., Asarco, Inc., Cities Service Co. (Minerals Group), Copper Range Co., Cyprus Mines Corp., Duval Corp., Hecla Mining Co., Inspiration Consolidated Copper Co., Kennecott Copper Corp., Magma Copper Co., Phelps Dodge Corp., and Ranchers Exploration and Development Corp., on behalf of the domestic industry producing unwrought, unalloyed copper, provided for in item 612.06 of the Tariff Schedules of the United States.

After considering all relevant aspects of the case, including those considerations set forth in section 202(c) of the Trade Act of 1974, I have determined that import relief is not in the national economic interest for the following reasons:

1. Import relief would impose significant costs on U.S. consumers of unwrought, unalloyed copper (refined copper). The increases in refined copper prices resulting from provision of relief could create incentives for circumvention of relief through increased imports of other copper products such as scrap, blister, and fabricated items. This would effectively reduce the level of protection provided to the domestic copper industry. Moreover, domestic copper fabricators would be faced with higher refined copper input costs and, at the same time, possible increased import competition in fabricated products.

2. Domestic copper market conditions have improved during 1978 and there is an improving outlook over the next several years for both the U.S. and world copper markets. U.S. and world copper prices have risen markedly during 1978 and the world inventory overhang has declined. Domestic refined copper production was up slightly during the first part of 1978; and imports have begun to decline from the high levels prevailing during the first part of the year.

3. Provision of import relief would subject U.S. jobs in other industries to possible foreign retaliation against U.S. exports or compensation by the United States in the form of reducing import restrictions on other products.

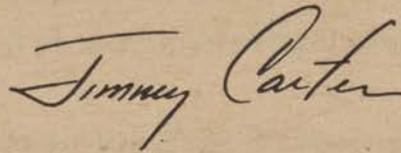
4. Import relief would adversely affect U.S. international economic interests. It would be contrary to our efforts to reduce trade barriers in the MTN and to develop cooperative international solutions to the world copper industry's problems in the context of discussions in the UNCTAD Integrated Program for Commodities. Import relief would also affect our bilateral relations with Canada and with LDC copper producers, such as Chile, Zambia, and

THE PRESIDENT

Peru, who are heavily dependent on copper exports as a source of foreign exchange earnings.

5. Trade adjustment assistance benefits have been and will continue to be available to copper mine, smelter, and refinery workers.

This determination is to be published in the FEDERAL REGISTER.

A handwritten signature in cursive script, reading "Jimmy Carter". The signature is written in dark ink and is centered on the page.

[FR Doc. 78-30163 Filed 10-20-78; 4:46 pm]

rules and regulations

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.

[6325-01-M]

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Department of Commerce

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: Schedule A exception for positions of Current Program Interviewer in the Census Bureau is amended to cover part time as well as intermittent positions because data collection for recurring Census Bureau surveys scheduled for the same week(s) each month may be properly designated as part-time work. Schedule A exception is still appropriate because it is still impracticable to examine for the positions.

EFFECTIVE DATE: October 12, 1978.

FOR FURTHER INFORMATION CONTACT:

James Edman 202-632-4533.

Accordingly, 5 CFR 213.3114(d)(2) is amended as set out below:

§ 213.3114 Department of Commerce.

(d) *Bureau of the Census* * * *

(2) Current Program Interviewers employed on an intermittent or part-time basis in the field service.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-58 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78-29875 Filed 10-23-78; 8:45 am]

[6325-01-M]

PART 213—EXCEPTED SERVICE

Department of Commerce, Department of Energy, Department of Housing and Urban Development

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment excepts under schedule C certain positions at the Department of Commerce, Department of Energy and the Department of Housing and Urban Development because they are confidential in nature. Appointments to these positions may be made without examination by the Civil Service Commission.

EFFECTIVE DATE: September 23, 1978.

FOR FURTHER INFORMATION CONTACT:

James R. Edman, 632-4533.

Accordingly, 5 CFR 213.3314(w)(2), 213.3331(l)(1) and 213.3384(b)(15) are amended as set out below:

§ 213.3314 Department of Commerce.

(w) *Industry and Trade Administration*. * * *

(2) One Confidential Assistant, one Senior Policy Analyst and one Policy Analyst to the Deputy Assistant Secretary for Trade Regulation.

§ 213.3331 Department of Energy.

(l) *Office of the Assistant Secretary for Defense Programs*. (1) One Confidential Assistant (Secretary) and one Staff Assistant to the Assistant Secretary.

§ 213.3384 Department of Housing and Urban Development.

(b) *Office of the Assistant Secretary for Housing—Federal Housing Commissioner*. * * *

(15) One Executive Assistant and one Special Assistant to the President, Government National Mortgage Association.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-58 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78-29891 Filed 10-23-78; 8:45 am]

[6325-01-M]

PART 213—EXCEPTED SERVICE

Department of Defense, Department of Commerce

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment excepts under schedule C certain positions in the Department of Commerce and Department of Defense because they are confidential in nature. Appointments to these positions may be made without examination by the Civil Service Commission.

EFFECTIVE DATE: October 5, 1978.

FOR FURTHER INFORMATION CONTACT:

James R. Edman, 202-632-4533.

Accordingly, 5 CFR 213.3306(a)(10) and 213.3314(r)(3) are amended as set out below:

§ 213.3306 Department of Defense.

(a) *Office of the Secretary*. * * *
(10) Two Special Assistants to the Assistant to the Secretary of Defense (Legislative Affairs).

§ 213.3314 Department of Commerce.

(r) *National Oceanic and Atmospheric Administration*. * * *

(3) One Secretary and one Special Assistant to the Assistant Administrator for Policy and Planning.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-58 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78-29877 Filed 10-23-78; 8:45 am]

RULES AND REGULATIONS

[6325-01-M]

PART 213—EXCEPTED SERVICE

Department of Energy

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: The following title changes pertaining to 11 positions excepted under schedule C are effected because the new titles more accurately reflect the duties of the positions: From two positions of Assistant to the Chairman to two positions of Assistant to the Chairman—Legal; from one position of Assistant to the Chairman to one position of Assistant to the Chairman—Economics; from seven positions of Technical Assistant to a member of the Commission to seven positions of Legal Advisor to a member of the Commission; from one position of Technical Assistant to a member of the Commission to one position of Technical Advisor to a member of the Commission. Appointments may be made to these positions without examination by the Civil Service Commission.

EFFECTIVE DATE: August 14, 1978.

FOR FURTHER INFORMATION CONTACT:

Michael Sherwin, 202-632-4533.

Accordingly, 5 CFR 213.3331(c) (3) and (4) are amended as set out below:

§ 213.3331 Department of Energy.

(c) *Federal Energy Regulatory Commission.* * * *

(3) Two Assistants to the Chairman—Legal, one Assistant to the Chairman—Economics, and one Assistant to the Chairman.

(4) Seven Legal Advisors to members of the Commission and one Technical Advisor to a member of the Commission.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-58 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
*Executive Assistant
to the Commissioners.*

[FR Doc. 78-29892 Filed 10-23-78; 8:45 am]

[6325-01-M]

PART 213—EXCEPTED SERVICE

Department of Health, Education, and Welfare; Correction

AGENCY: Civil Service Commission.

ACTION: Correction to final rule.

SUMMARY: This amendment corrects the title of a position excepted under schedule C in the Department of Health, Education, and Welfare in the document published in 43 FR 36591 August 18, 1978.

EFFECTIVE DATE: October 24, 1978.

FOR FURTHER INFORMATION CONTACT:

James R. Edman, 202-632-4533.

Accordingly, 5 CFR 213.3316(c)(21) is corrected as set out below:

§ 213.3316 Department of Health, Education, and Welfare.

(c) *Office of Education.* * * *

(21) Deputy Assistant Secretary for Education (Education Resources).

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954-58 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
*Executive Assistant
to the Commissioners.*

[FR Doc. 78-29893 Filed 10-23-78; 8:45 am]

[6325-01-M]

PART 213—EXCEPTED SERVICE

Department of the Navy

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: One position of Oceanographer, grade GS-14, which functions as project director and manager for research in the weapons systems applications of ocean eddies at the Naval Underwater Systems Center, New London, Conn., is excepted under schedule B because it is impracticable to hold a competitive examination for it.

EFFECTIVE DATE: October 11, 1978.

FOR FURTHER INFORMATION CONTACT:

Michael Sherwin, 202-632-4533.

Accordingly, 5 CFR 213.3208 is added as set out below:

§ 213.3208 Department of the Navy.

(a) *Naval Underwater Systems Center, New London, Conn.* (1) One position of oceanographer, grade GS-14, to function as project director and manager for research in the weapons systems applications of ocean eddies.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-58 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,

JAMES C. SPRY,

*Executive Assistant
to the Commissioners.*

[FR Doc. 78-29876 Filed 10-23-78; 8:45 am]

[6325-01-M]

PART 213—EXCEPTED SERVICE

Temporary Boards and Commissions

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This authority excepts from the competitive service all positions at grades GS-15 and below on the staff of the President's Commission on the Coal Industry with the provision that no one may serve under this authority after October 30, 1979. This exception is granted because it is impracticable to examine for these positions.

EFFECTIVE DATE: October 5, 1978.

FOR FURTHER INFORMATION CONTACT:

Michael Sherwin, 202-632-4533.

Accordingly, 5 CFR 213.3199(n) is added as set out below:

§ 213.3199 Temporary Boards and Commissions.

(n) *President's Commission on the Coal Industry.* (1) All positions on the staff of the President's Commission on the Coal Industry. No one may serve under this authority after October 30, 1979.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-58 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,

JAMES C. SPRY,

*Executive Assistant
to the Commissioners.*

[FR Doc. 78-29878 Filed 10-23-78; 8:45 am]

[3410-07-M]

Title 7—Agriculture

CHAPTER XVIII—FARMERS HOME ADMINISTRATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—LOANS AND GRANTS

PRIMARILY FOR REAL ESTATE PURPOSES

[FmHA Instruction 444.5]

**PART 1822—RURAL HOUSING
LOANS AND GRANTS**

**Subpart D—Rural Rental Housing
Loan Policies, Procedures, and Au-
thorizations**

AGENCY: Farmers Home Administra-
tion, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Ad-
ministration (FmHA) amended its reg-
ulations concerning Rural Rental
Housing by interim rule on July 27,
1978, at 43 FR 32399. The intended
effect of this action was to clearly in-
dicate to participating interim con-
struction lenders that FmHA's com-
mitment to close a rural rental hous-
ing loan is contingent upon acceptable
performance by the builder and pay-
ment of all construction bills. It also
revised FmHA regulations to permit
FmHA to make a loan to an eligible
applicant to purchase an acceptably
completed rural rental housing project
from an interim construction lender if
the original FmHA loan applicant be-
comes financially insolvent or ceases
to exist during the construction
period. This action was necessary in
order to remove existing misunder-
standings concerning FmHA's commit-
ment to interim lenders and provide
additional safeguards to help assure
FmHA loan closing. The comment
period has now expired, and no fur-
ther amendments are being considered
at this time.

EFFECTIVE DATE: October 24, 1978.

**FOR FURTHER INFORMATION
CONTACT:**

Mr. Lynn Voigt, Multiple Family
Housing Loan Officer, telephone
number 202-447-7207.

SUPPLEMENTARY INFORMATION:
Through interim rule on July 27, 1978,
at 43 FR 32399, the Farmers Home Ad-
ministration (FmHA) amended sub-
part D of part 1822, by adding
§ 1822.85(o); amending §§ 1822.86 (b)
(1), (8)(i), and (c); 1822.90 (d) and (i);
1822.94 (a), (b), and (c); and adding ex-
hibit I. The interim rule amended the
existing regulations by adding a guide
letter for FmHA's use in informing an
interim lender of FmHA's commit-
ment to close the FmHA loan to pay
off the interim indebtedness, and for
use in informing the interim lender of
conditions of FmHA's commitment.
The conditions indicated in the inter-
im rule were acceptable completion of
construction and payment of all con-
struction bills. The guide letter also in-
vites the interim lender to conduct

construction inspections jointly with
FmHA and suggests several alterna-
tives that can be used to help reduce
the risk of the FmHA loan not being
closed.

The interim rule also permits FmHA
to make a loan to an eligible applicant
to purchase an acceptably completed
project from an interim lender that
has been forced to accept title to the
project due to default of the contrac-
tor, the financial insolvency of the
original loan applicant, or because the
original loan applicant is deceased or
has been dissolved.

The comment period for the interim
rule closed August 28, 1978. FmHA re-
ceived two written comments in re-
sponse to the interim regulations. One
comment was supportive of the inter-
im regulations. The other comment
concerned the requirement that an ap-
plicant who is unable to obtain the
necessary initial operating and mainte-
nance capital as part of the FmHA
loan must provide evidence of the de-
posit of that capital into the general
fund account of the project prior to
FmHA issuing a letter of commitment
to an interim lender. It was suggested
that such a requirement imposes an
undue economic inequity to the devel-
oper of the project.

FmHA carefully considered these
comments. Requiring the deposit of
initial operating and maintenance cap-
ital into the general fund account of
the project prior to FmHA issuing the
letter of commitment to the interim
lender does assure the interim lender
that this required capital is available,
and therefore reduces the risk of the
FmHA loan not being closed. In addi-
tion, some of these funds are needed
during the construction phase of the
project to cover initial operating and
maintenance expenses. These include
such expenses as real estate taxes
during construction, property and li-
ability insurance premiums, fidelity
bond premiums, purchase of movable
furnishings and equipment, and other
initial expenses which cannot always
be included in FmHA loan funds. This
requirement assures that adequate
funds will in fact be available for these
purposes. This requirement also as-
sures the initial tenants of the project
that they will receive all of the ser-
vices to which they are entitled, even
before the project is fully occupied
and able to operate on at least a
break-even basis.

Accordingly, subpart D of part 1822
is adopted as a final rule as published
on July 27, 1978, at 43 FR 32399.

(42 U.S.C. 1480; delegation of authority by
the Secretary of Agriculture, 7 CFR 2.23;
delegation of authority by the Assistant
Secretary for Rural Development, 7 CFR
2.70.)

Dated: October 12, 1978.

GORDON CAVANAUGH,
Administrator,

Farmers Home Administration.

[FR Doc. 78-29968 Filed 10-23-78; 8:45 am]

[3410-34-M]

Title 9—Animals and Animal Products

**CHAPTER I—ANIMAL AND PLANT
HEALTH INSPECTION SERVICE, DE-
PARTMENT OF AGRICULTURE**

**SUBCHAPTER E—VIRUSES, SERUMS, TOXINS,
AND ANALOGOUS PRODUCTS; ORGANISMS
AND VECTORS**

**PART 113—STANDARD
REQUIREMENTS**

Miscellaneous Amendments

AGENCY: Animal and Plant Health
Inspection Service (USDA).

Action: Final rule.

SUMMARY: This amendment updates
11 sections of the regulations with re-
spect to requirements for detecting ex-
traneous viruses in master seed virus
used in the preparation of certain bi-
ological products. A new section con-
taining such requirements was recent-
ly added to the regulations and pub-
lished in the FEDERAL REGISTER. Tests
for the detection of extraneous viruses
which are presently required by the 11
sections, are required to be performed
according to the new section by this
amendment. This change will make
uniform test requirements applicable
to all the biological products affected
by this amendment. Additionally, one
section is amended by adding a refer-
ence to a cat safety test to be con-
ducted when vaccines are recommended
for use in cats.

EFFECTIVE DATE: This amendment
becomes effective October 22, 1979.

**FOR FURTHER INFORMATION
CONTACT:**

Dr. R. J. Price, Biologics Licensing
and Standards Staff, USDA, APHIS,
VS, Room 827, Federal Building, Hy-
attsville, Md. 20782, 301-436-8245.

SUPPLEMENTARY INFORMATION:
Requirements for detection of ex-
traneous viruses in Master Seed Virus
which is used in the preparation of
biological products have recently been
codified in new § 113.55 of the stand-
ard requirements (see 43 FR 11145,
Mar. 17, 1978). This amendment incor-
porates these requirements in the
standard requirements for several
products. This is accomplished by
either adding a reference to new
§ 113.55 in the standard being amend-
ed, or by making editorial changes
which require the testing of master

seed virus for extraneous viruses to be done according to the new section. These editorial changes include deletions, additions, and revisions of the present standards for certain virus products. Additionally, this amendment adds a cat safety test found in § 113.39 to § 113.135, as a general requirement.

On April 25, 1978, a notice of the proposed amendment to part 113 was published in the FEDERAL REGISTER at 43 FR 17477.

Comments on this proposal were solicited and nine responses were received. One response was favorable to the proposal as written.

Three responses were favorable to the proposal but requested that it not become effective for 1 year in order to allow sufficient time to conduct the new tests on Master Seed Virus presently being used for the production of biological products. It was also requested that testing in accordance with § 113.55 not be required for Master Seed Virus presently being used until the next scheduled repeat immunogenicity test. The request for the 1-year period to complete the new required testing was considered appropriate and constructive. The effective date of this regulation will, therefore, be set at 1 year from the date of publication in the FEDERAL REGISTER. The suggestion that the new testing not be required until the next scheduled master seed repeat immunogenicity test was rejected since some Master Seed Viruses will not be scheduled for such testing for 3 to 5 years. This was considered to be more time than necessary to complete the tests.

Three responses suggested that Master Seed Virus that has already been tested for extraneous viruses according to §§ 113.51 and 113.52 be exempted from the testing required by § 113.55. This suggestion was rejected since § 113.55 requires the use of cell types and fluorescent antibody conjugates for the testing of some Master Seed Viruses that are not required by §§ 113.51 and 113.52 and has the potential of detecting a broader spectrum of extraneous viruses.

If certain Master Seed Viruses were exempted from the tests required by § 113.55, as suggested, uniform test requirements would not be applied to all the biological products affected by the amendment as intended. Results of tests for extraneous viruses that have been conducted previously may be acceptable to meet some of the requirements of § 113.55 and may be submitted for review. Supplemental data shall be required, however, for those tests that have not been conducted or that are found to be incomplete.

Two responses suggested that Master Seed Virus used for the production of certain vaccines be exempted

from testing according to § 113.55 because the method of production used for these vaccines makes testing of the Master Seed Virus impractical and inappropriate.

The suggestion that Wart Vaccine and Ovine Ecthyma Vaccine be exempted was rejected as inappropriate since standard requirements for these products in §§ 113.126 and 113.136 do not require testing of the Master Seed Virus according to § 113.55.

The suggestion that Encephalomyelitis Vaccine and Mink Enteritis Vaccine be exempted was rejected since review indicates only one manufacturer of each of these products has a method of production that makes testing of the Master Seed Virus impractical and inappropriate. These specific cases may be handled in a more appropriate manner by the consideration of individual exemptions or alternate test procedures that may be noted in the outline of production as provided in § 113.4.

After due consideration of all relevant matters, including the proposal set forth in the aforesaid notice, and pursuant to the authority contained in the Virus-Serum-Toxin Act of March 4, 1913 (21 U.S.C. 151-158), the amendment of part 113, subchapter E, chapter I, title 9 of the Code of Federal Regulations, as contained in the aforesaid notice is hereby adopted with the following exceptions:

Printing errors have been corrected by capitalizing the first letter in each word of the headings for §§ 113.129, 113.140, 113.141, 113.142, 113.144, 113.145, 113.146, 113.147, and 113.148.

1. Section 113.120 is amended by adding a new paragraph (c)(4) to read:

§ 113.120 General requirements for killed virus vaccines.

(c) * * *

(4) *Extraneous viruses.* Each lot of Master Seed Virus used to prepare killed virus vaccine recommended for animals other than poultry shall meet the requirements for extraneous viruses as prescribed in § 113.55.

2. Section 113.129 is amended by revising the introductory portion of paragraph (a), by revising paragraphs (a)(1) and (a)(2), and by deleting paragraph (a)(3) to read:

§ 113.129 Rabies Vaccine, Killed Virus.

(a) The Master Seed Virus shall meet the applicable requirements prescribed in § 113.120 and the requirements prescribed in this section.

(1) Each lot of Master Seed Virus propagated in tissue or cells of avian origin shall also be tested for extraneous pathogens by procedures prescribed in § 113.37.

(2) Each lot of Master Seed Virus propagated in primary cell cultures of mouse or hamster origin or brain tissues of mouse origin shall be tested for lymphocytic choriomeningitis (LCM) virus by the procedure prescribed in § 113.42. If LCM virus is detected, the Master Seed Virus is unsatisfactory.

3. Section 113.135 is amended by adding a new paragraph (a)(4) and a new paragraph (b)(4) to read:

§ 113.135 General requirements for live virus vaccines.

(a) * * *

(4) *Extraneous viruses.* Each lot of Master Seed Virus used to prepare live virus vaccine recommended for animals other than poultry shall meet the requirements for extraneous viruses as prescribed in § 113.55

(b) * * *

(4) All live virus vaccines recommended for use in cats shall be tested for safety in accordance with the test provided in § 113.39.

4. Section 113.140 is amended by deleting and reserving paragraph (b)(3) to read:

§ 113.140 Canine Hepatitis Vaccine.

(b) * * *

(3) [Reserved]

5. Section 113.141 is amended by revising the introductory portion of paragraph (b)(2), by deleting subparagraphs (b)(2) (i) and (ii), and by deleting paragraph (b)(3) to read:

§ 113.141 Canine Distemper Vaccine, Ferret Avirulent.

(b) * * *

(2) Master Seed Virus propagated in chicken embryos shall be tested for pathogens by the chicken embryo test prescribed in § 113.37. If found unsatisfactory, the Master Seed Virus shall not be used.

6. Section 113.142 is amended by revising the introductory portion of paragraph (b) and deleting paragraphs (b)(1) and (b)(2) to read:

§ 113.142 Canine Distemper, Ferret Virulent.

(b) The lot of Master Seed Virus shall be tested for other viral contaminants as prescribed in § 113.55.

7. Section 113.144 is amended by revising paragraphs (a) and (b) to read:

§ 113.144 Bovine Parainfluenza₃ Vaccine.

(a) The Master Seed Virus shall meet the applicable general requirements prescribed in § 113.135.

(b) Each lot of Master Seed Virus shall meet the special requirements prescribed in this section.

8. Section 113.145 is amended by revising paragraphs (a) and (b) to read:

§ 113.145 Bovine Rhinotracheitis Vaccine.

(a) The Master Seed Virus shall meet the applicable general requirements prescribed in § 113.135.

(b) Each lot of Master Seed Virus shall meet the special requirements prescribed in this section.

9. Section 113.146 is amended by revising paragraphs (a) and (b) to read:

§ 113.146 Bovine Virus Diarrhea Vaccine.

(a) The Master Seed Virus shall meet the applicable general requirements prescribed in § 113.135.

(b) Each lot of Master Seed Virus shall meet the special requirements prescribed in this section.

10. Section 113.147 is amended by revising paragraphs (a) and (a) (1) to read:

§ 113.147 Rabies vaccine.

(a) The Master Seed Virus shall meet the applicable general requirements prescribed in § 113.135.

(1) Each lot of Master Seed Virus shall meet the special requirements prescribed in this section.

11. Section 113.148 is amended by revising paragraph (a) and (b), and by deleting paragraphs (b)(1) and (b)(2) as follows:

§ 113.148 Measles Vaccine.

(a) The Master Seed Virus shall meet the applicable general requirements prescribed in § 113.135. Each lot of Master Seed Virus shall meet the special requirements prescribed in this section.

(b) To detect virulent canine distemper virus, each of two canine distemper susceptible ferrets shall be injected with a sample of the Master Seed Virus equivalent to the amount of virus to be used in one dog dose and observed each day for 21 days. If undesirable reactions occur in either ferret, the lot of Master Seed Virus is unsatisfactory.

(21 U.S.C. 151 and 154; 37 FR 28477, 28646; 38 FR 19141.)

Done at Washington, D.C., this 17th day of October 1978.

NOTE.—The Animal and Plant Health Inspection Service has determined that this document does not contain a major proposal requiring preparation of an inflation impact statement under Executive Order 11821 and OMB Circular A-107.

E. A. SCHILF,
Acting Deputy Administrator,
Veterinary Services.

[FR Doc. 78-29776 Filed 10-23-78; 8:45 am]

[1505-01-M]

Title 12—Banks and Banking

CHAPTER II—FEDERAL RESERVE SYSTEM

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Reg. Z; Docket No. R-0152]

PART 226—TRUTH IN LENDING

Disclosure of Varying Payments Scheduled To Repay the Indebtedness

Correction

In FR Doc. 78-24598, appearing at page 38811 in the issue of Thursday, August 31, 1978, on page 38812, in the first and second columns, the amendment to § 226.8 is correctly reprinted as follows:

§ 226.8 Credit other than open end—specific disclosures.

(a) General rule. * * *

Notwithstanding the provisions of paragraphs (a) (1) and (2) of this section, a creditor may, in any transaction in which the payments scheduled to repay the indebtedness vary, satisfy the requirements of § 226.8(b)(3) with respect to the number, amount, and due dates or periods of payments by disclosing the required information on the reverse of the disclosure statement or on a separate page(s): *Provided*, That the following notice appears with the other required disclosures: "NOTICE: See [reverse side] [accompanying statement] for the schedule of payments."

[6320-01-M]

Title 14—Aeronautics and Space

CHAPTER II—CIVIL AERONAUTICS BOARD

[Reg. PR-180, Amdt. 43]

PART 302—RULES OF PRACTICE IN ECONOMIC PROCEEDINGS

Unused Authority Proceedings

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The Airline Deregulation Act of 1978 includes new provisions governing unused nonstop route authority. The Board is adopting rules to govern unused authority proceedings.

DATED: Adopted: October 18, 1978. Effective: October 18, 1978.

FOR FURTHER INFORMATION CONTACT:

Mark Schwimmer, Civil Aeronautics Board, Office of the General Counsel, 1825 Connecticut Avenue NW., Washington, D.C. 20428, 202-673-5442.

SUPPLEMENTARY INFORMATION: On October 15, 1978, Congress enacted S. 2493, the Airline Deregulation Act of 1978. Section 10 of that Act will take effect immediately upon signature by the President. It will add a new paragraph (5) to section 401(d) of the Federal Aviation Act of 1958, as amended, concerning unused nonstop route authority.

Under paragraph (5), a certificate authorizing round-trip nonstop service between a pair of points will be considered unused or dormant if the certificated carrier does not provide service

of at least five round trips a week for at least 13 weeks during a 26-week period. This will apply to any 26-week period that ends on or after the bill becomes law. There are similar standards for seasonal certificates.

There will be two types of procedures for issuing new authority in a market that has dormant certificates, according to the number of carriers that are actually providing round-trip nonstop service there market. In a market that has no such service, or receives it from only one carrier, the Board must authorize new service within 15 days to the first applicant who certifies that it complies with FAA regulations and is able to comply with Board regulations. For markets served by two or more carriers, the Board must authorize the first applicant who makes these certifications unless it finds, within 60 days, that the award of new authority would be inconsistent with the public convenience and necessity. There is a rebuttable presumption that any application to replace a dormant carrier is consistent with the public convenience and necessity. On a one-time basis for each pair of points, an air carrier with dormant authority will be able, by giving notice to the Board and reactivating service, to stop the Board from issuing new authority under paragraph (5).

Applications may be submitted as soon as the President signs the bill into law. Temporary procedures for the receipt of applications are being issued along with this rule.

Paragraph (5) will also direct the Board, when issuing new authority (other than seasonal authority) in a market receiving round-trip nonstop service from one or no carriers, to suspend all dormant authority unless it finds that a suspension is not necessary to encourage continued service by the newly authorized carrier.

This amendment of part 302 of our procedural regulations, Rules of Practice in Economic Proceedings (14 CFR Part 302), adds a new Subpart R—Rules Applicable to Unused Authority Proceedings. These rules include requirements for applications under new section 401(d)(5) of the Act, answers to applications, incumbent carriers' notices of intent to begin service (used to block awards of new authority), and notices of inauguration of service. The rules do not preclude applications under other portions of the Act for certificates to serve markets that are the subject of unused authority proceedings.

Applications for new authority under section 401(d)(5) are governed by four different subparagraphs of paragraph (5)—(A), (B), (D), and (E)—depending on the number of incumbent carriers actually providing service and on whether the service is seasonal.

Applicants are not precluded from asking, in a single application, for authority in more than one market. Because of the possibility of a large volume of applications, however, § 302.1804(b) is designed to expedite handling by requiring applications to be segregated according to the subparagraph that governs the request. Similar requirements are set out in § 302.1808(b) for incumbents' notices that attempt to block the issuance of new authority.

The rule requires applications to be served on all named carriers, affected airport authorities, and the FAA. Applications must be titled, "Application for Unused Authority."

Each application must identify the relevant subparagraph of section 401(d)(5), and include the dates of the base period used and the names of the carriers with authority between the points in question, both active and dormant. The points between which authority is sought must of course be identified, and the rule requires use of the Official Airline Guide's three-letter airport code and alphabetization of the pairs of points. The applicant must also certify that its aircraft meet all applicable FAA requirements for common carriers, that it is able to conform to Board regulations, and that it will obtain the necessary operating authority from the FAA in time to begin the service applied for.

The Board will consider suspending the dormant authority forming the basis of the application only if the applicant for new authority makes a showing that it is prepared to initiate service under the certificate applied for. Such a showing must include, at a minimum, specific information showing why suspension is necessary to encourage continued service between those points by the applicant, a list of any other applications filed by the applicant within the preceding 45 days, and a description of the aircraft that the applicant intends to use, or a plan for obtaining it.

Answers to an application may be filed within 7 calendar days (with no exceptions for weekends or holidays) after the application.

Successful applicants under this subpart must file a notice of inauguration of service between each pair of points, within 7 days after service begins.

In view of the short-time periods that Congress has provided for us to act on applications under section 401(d)(5), we conclude that Congress did not intend the requirements of the National Environmental Policy Act of 1969 and the Energy Policy and Conservation Act to apply to any action that we take under that section.

In order 78-10-73, issued along with this rule, we are delegating to the Director of the Bureau of Pricing and

Domestic Aviation the authority to exercise the Board functions set forth in section 401(d)(5) of the Act, as amended. Allegations of violations of the separation of functions rule, 14 CFR 300.4, could arise in situations where the requested authority is already in issue in a hearing case. Since the award of authority under section 401(d)(5) is not discretionary, however, this rule specifies that actions taken by the Director under this delegation will not be considered violative of § 300.4.

We are also amending rule 908 of the rules of practice (14 CFR 302.908) to exclude applications filed under this new subpart from its coverage. That rule is meaningful only for applications upon which hearings might be held, and we do not expect to hold hearings in unused authority proceedings.

Because of the need to have these rules in effect by the time the Deregulation Act is signed, we find that notice and public procedure are impracticable and contrary to the public interest, and that an immediate effective date is in the public interest.

Accordingly, the Civil Aeronautics Board amends part 302 of its procedural regulations, rules of practice in Economic Proceedings (14 CFR Part 302), as follows:

1. The table of contents is amended by adding a new subpart R, to read:

Sec.

Subpart R—Rules Applicable to Unused Authority Proceedings

302.1801	Applicability.
302.1802	Definitions.
302.1803	Service of applications and answers.
302.1804	General requirements for applications.
302.1805	Contents of applications.
302.1806	Additional requirements for applications that request suspension of unused authority.
302.1807	Answers to applications.
302.1808	General requirements for incumbent carriers' notices of intent to begin service.
302.1809	Contents of incumbent carriers' notices of intent to begin service.
302.1810	Notices of inauguration of service.
302.1811	Environmental evaluations and energy information not required.
302.1812	No conflict with separation of functions rule.

2. In § 302.908, the first sentence of paragraph (a) is amended to read:

§ 302.908 Applications for new or modified certificated route authority.

(a) This section applies to all applications for new or modified certificated route authority except those filed under subpart M, N, or R of this part and those filed in response to, and

conforming to, an order instituting a route investigation. * * *

3. A new subpart R is added, to read:

Subpart R—Rules Applicable to Unused Authority Proceedings

§ 302.1801 Applicability.

This subpart applies to applications for nonstop route authority where unused authority exists, filed under sections 401(d)(5)(A), (5)(B), (5)(D), and (5)(E) of the Act, and to notices of incumbents' intent to begin service that are filed under section 401(d)(5)(G) of the Act.

§ 302.1802 Definitions.

As used in this subpart:

"Application" means an application for nonstop route authority under section 401(d)(5)(a), (5)(B), (5)(D), or (5)(E) of the Act.

"Applicant" means a person who files an application under this subpart.

"Minimum level" and "minimum level of service" mean the minimum level of service set forth in subparagraph (A), (B), (D), or (E) of paragraph (5) of section 401(d) of the Act, as applicable.

§ 302.1803 Service of applications and answers.

(a) *Manner of service.* Applications and answers to applications filed under this subpart shall be served in the manner set forth in § 302.8.

(b) *Persons to be served.* Applications shall be served on:

(1) All air carriers named in the application in accordance with paragraph (c)(2) or (c)(3) of § 302.1805.

(2) The airport authority of each airport the applicant proposes to use.

(3) The Federal Aviation Administration.

§ 302.1805 General requirements for applications.

(a) Applications filed under § 302.1805 shall be titled "Application for Unused Authority."

(b) An application may request nonstop authority in more than one market. However, applications shall not include requests for authority under more than one subparagraph of paragraph (5) of section 401(d) of the Act.

§ 302.1804 Contents of applications.

Each application filed under this subpart shall:

(a) Identify the subparagraph of paragraph (5) of section 401(d) of the Act that governs the application.

(b) Indicate the pair or pairs of points between which the applicant seeks nonstop route authority. Each

point shall be identified by the Official Airline Guide's 3-letter airport code. If more than one airport serves a point, the airports shall be listed in alphabetical order. (Example: EWR/JFK/LGA.) Each pair of points shall be internally alphabetized. (Example: BOS-SFO, not SFO-BOS.) If the application covers more than one pair of points, the pairs shall be listed in alphabetical order. (Example: BOS-LAX; BOS-SFO; EWR/JFK/LGA-CHI.)

(c) State, for each pair of points named in the application:

(1) The beginning and ending dates of the 26-week period or season, as applicable, upon which the application is based.

(2) The name of each air carrier that has provided the minimum level of service between those points during the time described in paragraph (c)(1) of this section.

(3) The name of each air carrier having certificate authority to provide nonstop round-trip service between those points that has not provided the minimum level of service during the time described in paragraph (c)(1) of this section.

(4) For each carrier named in paragraph (c)(3) of this section, the dates of below-minimum service during the time described in paragraph (c)(1) upon which the application is based. The application shall include a copy of the relevant portions of the Official Airline Guide necessary to demonstrate that the carrier has not provided the minimum level of service. The absence from the Official Airline Guide of a listing for any service shall create a rebuttable presumption that the service was not provided.

(d) Certify that the applicant's aircraft meet all applicable requirements established by the Secretary of Transportation for the carriage by aircraft of persons or property as a common carrier for compensation or hire or the carriage of mail by aircraft in commerce.

(e) Certify that the applicant will obtain any necessary operating authority from the Federal Aviation Administration in time to begin exercising the nonstop route authority sought under this subpart within the time set forth in paragraph (H)(i) or (H)(ii) of section 401(d)(5) of the Act, as applicable.

(f) Certify that the applicant is able to conform to the rules, regulations, and requirements of the Board promulgated pursuant to the Act.

§ 302.1806 Additional requirements for applications that request suspension of unused authority.

(a) If an applicant for authority under section 401(d)(5)(A) of the Act wants the Board to suspend the unused authority of incumbent carriers

as set forth in section 401(d)(5)(J) of the Act, its application shall at a minimum include, in addition to the information set forth in § 306.1805, the following:

(1) Information specific to each pair of points showing why suspension is necessary to encourage continued service between those points by the applicant;

(2) A list, by filing date and points, of all other applications filed or to be filed under this subpart on the same day and within the preceding 45 days; and

(3) A description of the aircraft that the applicant intends to use in exercising the authority sought in the current application and all applications filed or to be filed under this subpart on the same day and within the preceding 45 days. The description shall consist of either a plan for obtaining aircraft identified by type, that can be verified within 15 days by the Board's staff, or a list of aircraft identified by FAA registration number.

(b) If the Board grants an application under this subpart that does not include the information set forth in paragraph (a) of this section, the Board will not suspend the unused authority of incumbent carriers.

§ 302.1807 Answers to applications.

(a) Any person may file an answer to an application filed under this subpart within 7 calendar days (with no exceptions for weekends or holidays) after the application is filed.

(b) Answers shall be entitled "Answers to Applications for Unused Authority."

§ 302.1808 General requirements for incumbent carriers' notices of intent to begin service.

(a) Notices of intent to begin service filed under § 302.1809 of this subpart shall be titled "Notice of Intent To Exercise Unused Authority."

(b) A notice may address service in more than one market. However, notices shall not address authority covered by more than one subparagraph of paragraph (5) of section 401(d) of the Act.

§ 302.1809 Contents of incumbent carriers' notices of intent to begin service.

Each incumbent carrier's notice of intent to begin service, as described in section 401(d)(5)(G) of the Act, shall state:

(a) The subparagraph of paragraph (5) of section 401(d) that governs the authority covered by the notice; and

(b) The pair or pairs of points between which the carrier filing the notice intends to begin service within the time set forth in section 401(d)(5)(G)(i) or (G)(ii), as applicable, identi-

fied by airport codes in alphabetical order as set forth in § 302.1805(b).

§ 302.1810 Notices of inauguration of service.

(a) Every person to whom a certificate is issued by the Board under section 401(d)(5) of the Act shall, for each pair of points between which the certificate newly authorizes that person to perform round-trip nonstop service, file a notice within 7 days after inaugurating that service.

(b) Notices described in paragraph (a) of this section shall identify the points between which service has been inaugurated, and shall be filed in three copies, titled "Notice of Inauguration of Service Under Section 401(d)(5)," and marked for the attention of the Director, Bureau of Pricing and Domestic Aviation.

§ 302.1811 Environmental evaluations and energy information not required.

Notwithstanding any provision of part 312 of this title, Implementation of the National Environmental Policy Act, including the preparation of environmental impact statements, or Part 313, Implementation of the Energy Policy and Conservation Act, a person filing an application under this subpart is not required to file an environmental evaluation or energy information with the application.

§ 302.1812 No conflict with separation of functions rule.

Actions taken by the Director of the Bureau of Pricing and Domestic Aviation under delegated authority to administer section 401(d)(5) of the Act will not be considered as conflicting with the Board's separation of functions rule, § 300.4 of this chapter.

(Secs. 204, 401, Federal Aviation Act of 1958, as amended, 72 Stat. 743, 754 (14 U.S.C. 1324, 1371).)

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-29910 Filed 10-19-78; 2:16 pm]

[6355-01-M]

Title 16—Commercial Practices

CHAPTER II—CONSUMER PRODUCT SAFETY COMMISSION

PART 1017—PROCEDURES FOR SAFEGUARDING CONFIDENTIAL INFORMATION

Subpart B—Chemical Formulations for Consumer Products

REVISION OF PROCEDURES

AGENCY: Consumer Product Safety Commission.

ACTION: Revision of procedures.

SUMMARY: The Commission revises its procedures for safeguarding confidential chemical formulations of consumer products, to reflect a recent reorganization of the Commission. Under the reorganization, responsibility for the maintenance of chemical formulations was transferred from the Bureau of Biomedical Sciences to the Directorate for Hazard Identification and Analysis. Likewise, the officials responsible for safeguarding the information are changed to reflect the change in organizational structure. The Commission is also making changes to the procedures to facilitate use of the data by authorized Commission employees.

DATE: Effective October 13, 1978.

FOR FURTHER INFORMATION CONTACT:

Irvin Weiss, Chronic Hazard Program, Division of Program Analysis-Epidemiology, HIEA, Consumer Product Safety Commission, Washington, D.C. 20207, 301-492-6470.

SUPPLEMENTARY INFORMATION: On August 31, 1976, the Commission issued procedures for safeguarding confidential chemical formulations that are submitted to the Commission (16 CFR 1017, subpart B.) Those procedures placed responsibility for maintenance and safeguarding of chemical formulations with the Bureau of Biomedical Science, and made the Director of the Bureau of Biomedical Science and the Bureau Document Control Custodian responsible for the implementation of those procedures. In April 1978, the Commission was reorganized and various responsibilities and functions were transferred. The reorganization transferred the responsibility for collecting and maintaining chemical formulations to the Directorate for Hazard Identification and Analysis (HIA). The officials within HIA designated to be responsible for chemical formulations are the Team Leader, Chronic Hazard Program, Division of Program Analysis-Epidemiology, and the Division Document Control Custodian (HIEA). Part 1017, subpart B has been revised throughout to reflect this transfer of responsibility.

In addition, § 1017.13(2) has been amended to permit authorized Commission employees to use the data out-

side of the designated security area as long as the material is kept in the immediate possession and direct personal control of the authorized employee and returned to the Document Control Custodian at the close of business each day.

Permitting use of the data outside of the security area is necessary for efficiency and flexibility while control is maintained by requiring that the data remain under the personal supervision of the authorized employees.

In view of the foregoing, the Commission, pursuant to section 6(a)(2) of the Consumer Product Safety Act (15 U.S.C. 2055(a)(2)), amends part 1017, subpart B as follows:

Subpart B—Chemical Formulations for Consumer Products

Sec.

- 1017.11 Purpose and scope.
- 1017.12 Responsible officials.
- 1017.13 Internal Commission safeguards.
- 1017.14 Commission representatives' safeguards.

AUTHORITY: Sec. 6(a)(2), Pub. L. 92-573, 86 Stat. 212; 15 U.S.C. 2055(a)(2).

Subpart B—Chemical Formulations for Consumer Products

§ 1017.11 Purpose and scope.

The procedures set forth in this subpart B describe the measures taken by the Consumer Product Safety Commission (the Commission) to safeguard the confidentiality of chemical product formula information claimed confidential and submitted to the Commission in any form, voluntarily or pursuant to its special order of August 21, 1975 (40 FR 36617), or any similar special order.

§ 1017.12 Responsible officials.

(a) The Team Leader, Chronic Hazard Program, Division of Program Analysis-Epidemiology (HIEA), Directorate for Hazard Identification and Analysis (HIA) or the Team Leader's designee, in concert with the Associate Executive Director, Directorate for Hazard Identification and Analysis, or the Associate Executive Director's designee, is responsible for implementing and supervising the procedures of this subpart B.

(b) The Division Document Control Custodian HIEA designated by the Associate Executive Director, HIA, is responsible for keeping a logbook record that shall account for the custody of proprietary information. The logbook record shall also show which employees are authorized to have access to the information and shall reflect each instance of access to the information.

(c) The Commission Security Officer designated by the Associate Executive Director, Directorate for Administration, is responsible for providing facili-

tative support to the Chronic Hazard Program, HIEA, for the physical security of the confidential information and for assisting in regulating the use of confidential information by other Commission employees outside the Chronic Hazard Program, HIEA.

§ 1017.13 Internal Commission safeguards.

(a) *Personnel.* In accordance with the statutory restrictions imposed by section 6(a)(2) of the Consumer Product Safety Act, only Commission employees concerned with carrying out the Consumer Product Safety Act may be authorized to have access to the confidential information. The Team Leader, Chronic Hazard Program, HIEA, shall determine on an individual basis which employees are so authorized and to what information the employees may have access. These determinations shall be communicated in writing to the Division Document Control Custodian and the Commission Security Officer.

(b) *Facilities and other measures.* (1) Confidential information shall be kept in a combination lock safe within a security area in the Commission. Additional (backup) copies of the proprietary information shall be stored in a commercial bank vault. The Commission security area shall be a room or rooms that are locked at all times and electronically monitored outside normal working hours. Also, after regular business hours, the security area shall be periodically checked by a member of the Commission's building security force. Any time a Commission employee who knows a combination to a safe leaves the employ of the Commission, the combination will be changed.

(2) Information may be removed from the safe or bank vault only by the Division Document Control Custodian or, in the Custodian's absence, by the Team Leader, Chronic Hazard Program, HIEA, or the Commission Security Officer. At no time shall such information be out of the immediate possession of the authorized employee. The information shall be returned to the Division Document Control Custodian by the close of business each day or whenever the authorized employee is not able to exercise direct surveillance and immediate personal control of the information. The Division Document Control Custodian, or, in the Custodian's absence, the Team Leader, Chronic Hazard Program, HIEA, or the Commission Security Officer, in turn, shall return the information to the safe or bank vault.

(3) Only the Division Document Control Custodian or the Team Leader, Chronic Hazard Program, HIEA, may authorize making a copy of proprietary information. Any copy made shall be safeguarded in the same

manner as required for the original material by this subpart B and records shall be kept by the Division Document Control Custodian to record each copy produced.

(4) Disposal or destruction of any confidential information shall be carried out in the presence of the Division Document Control Custodian or the Team Leader, Chronic Hazard Program, HIEA, and the Commission Security Officer. Disposal or destruction shall be done in a manner that allows no possible extraction or compilation of information contained therein. Records shall be kept of all materials destroyed.

(5) The Division Document Control Custodian shall maintain complete records on the use or disposal of proprietary information as specified in § 1017.12(b).

(c) *Computer processing.* (1) Processing of proprietary information shall be done only at a Government or contract facility having security procedures that meet or substantially exceed the standards of the DHEW Information Processing Standards Publication No. 3, entitled "ADP System Security Required by the Privacy Act of 1974," dated July 24, 1975 (HEW TN75.4).

(2) Magnetic tapes containing proprietary information shall be handcarried by an authorized Commission employee to and from the appropriate computer facility, and all processing shall be done under that employee's supervision and in that employee's presence. After completion of the processing, no proprietary information shall remain in the computer.

(3) The Division Document Control Custodian shall maintain complete records on instances of computer processing of the material, citing the location of the facility, the employee transporting the records and witnessing the computer processing of the material, and the date and time.

§ 1017.14 Commission representatives' safeguards.

A representative of the Commission, whether another governmental entity or a private contractor, when collecting or processing proprietary information for the Commission, shall be subject to the procedures of this section. Before any entity may act as the Commission's representative for collecting or processing proprietary information, the following requirements must be met:

(a) *Facilities and other measures.* The Team Leader, Chronic Hazard Program, HIEA and/or the Division Document Control Custodian and the Commission Security Officer shall inspect and approve in writing the proposed representative's facilities and control measures to insure that they are adequate to safeguard the confi-

dentiality of the proprietary information.

(b) *Computer processing.* The Team Leader, Chronic Hazard Program, HIEA and the Division Document Control Custodian shall inspect and approve the computer processing methods of the proposed representative to insure that they are adequate to safeguard the confidentiality of the proprietary information. Approval shall not be given unless the methods meet the standards described in § 1017.13(c)(1).

(c) *Personnel.* The Team Leader, Chronic Hazard Program, HIEA, and the Division Document Control Custodian shall take steps to insure that any access to information by employees of a Commission representative is strictly controlled. If the representative is a private contractor, these steps shall include requiring each employee who is permitted to have access to the proprietary information to first execute an affidavit of nondisclosure. The Commission Security Officer shall review affidavits of nondisclosure executed by Commission representatives to insure that the forms are completed accurately and completely.

(d) *Subcontractors.* Use of a subcontractor by a Commission representative must have the approval, in writing, of the Team Leader, Chronic Hazard Program, HIEA, if the subcontractor will handle proprietary information. The Team Leader, in concert with the Commission Security Officer, shall insure that the requirement of paragraphs (a), (b), and (c) of this section are met by each subcontractor.

(e) *Agreements.* Every agreement between the Commission and its representative and between the representative and a subcontractor which will handle proprietary information shall include provisions to insure that measures adequate to safeguard proprietary information are maintained.

Effective date: The changes in this regulation are now in effect. Because these amendments to 16 CFR 1017 are questions of internal Commission procedure, it is not necessary that the regulation be published for comment under 5 U.S.C. 553 or that there be a delayed effective date.

SADYE E. DUNN,
Secretary, Consumer
Product Safety Commission.

OCTOBER 18, 1978.

[FR Doc. 78-29952 Filed 10-23-78; 8:45 am]

[4110-03-M]

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER B—FOOD FOR HUMAN CONSUMPTION

[Docket No. 77F-0175]

PART 176—INDIRECT FOOD ADDITIVES: PAPER AND PAPERBOARD COMPONENTS

Dimethylolpropionic Acid

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document amends the food additive regulations to provide for the use of dimethylolpropionic acid as a comonomer for polyester resin for use in paper and paperboard. The action is being taken in response to a petition filed by Callaway Chemical Co.

DATES: Effective October 24, 1978. Objections by November 24, 1978.

ADDRESS: Written objections to the Hearing Clerk (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

John J. McAuliffe, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C Street SW., Washington, D.C. 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: A notice published in the FEDERAL REGISTER of July 1, 1977 (42 FR 33807) announced that a food additive petition (FAP 6B3240) was filed by Callaway Chemical Co., P.O. Box 2335, Columbus, Ga. 31902, proposing that § 176.170 Components of paper and paperboard in contact with aqueous and fatty foods (21 CFR 176.170) be amended by providing for the safe use of dimethylolpropionic acid as a comonomer in polyester resin coatings for use in paper and paperboard.

The Commissioner of Food and Drugs, having evaluated data in the petition and other relevant material, concludes that § 176.170 should be amended as set forth below to include polyester resins containing dimethylolpropionic acid as a comonomer at a

concentration not greater than 30 percent by weight of total polymer solids, for use in paper and paperboard.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(1))), and under authority delegated to the Commissioner (21 CFR 5.1), § 176.170(a)(5) is amended by alphabetically inserting a new item to read as follows:

§ 176.170 Components of paper and paperboard in contact with aqueous and fatty foods.

(a) * * *
(5) * * *

List of substances

Limitations

Polyester resin produced by reacting dimethylolpropionic acid (CAS Registry Number 4767-03-7) as a comonomer, at no more than 30 percent by weight of total polymer solids in reaction with 2,2-dimethyl-1,3-propanediol, phthalic anhydride and isophthalic acid, such that the polyester resin has a viscosity of 200-600 centipoises at 80° F as determined by a Brookfield RVT viscometer using a number 3 spindle at 50 rpm (or equivalent method).

For use only as a surface-sizing compound applied after the sheet-forming operation in the manufacture of paper and paperboard and limited to use at levels not to exceed 0.1 percent by weight of finished dry paper or paperboard.

Any person who will be adversely affected by the foregoing regulation may at any time on or before November 24, 1978 submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Four copies of all documents shall be

submitted and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this regulation. Received objections may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall become effective October 24, 1978.

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

Dated: October 16, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner
for Regulatory Affairs.

[FR Doc. 78-29763 Filed 10-23-78; 8:45 am]

[4110-03-M]

SUBCHAPTER E—ANIMAL DRUGS, FEEDS, AND RELATED PRODUCTS

PART 524—OPHTHALMIC AND TOPICAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

Selenium Disulfide Suspension

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: this document amends the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Zeecon Industries, Inc., providing for use of a selenium disulfide suspension on dogs as a cleansing shampoo and as an agent for removing skin debris.

EFFECTIVE DATE: October 24, 1978.

FOR FURTHER INFORMATION CONTACT:

Henry C. Hewitt, Bureau of Veterinary Medicine (HFV-112), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3430.

SUPPLEMENTARY INFORMATION: Zeecon Industries, Inc., 12200 Denton Drive, Dallas, Tex. 75234, filed an NADA (103-434V) providing for use of a selenium disulfide suspension on dogs as a cleansing shampoo and as an agent for removing skin debris associated with dry exzema and nonspecific dermatoses.

This application concerns a product which is similar to one reviewed by the National Academy of Sciences—National Research Council (NAS/NRC), approval of which is reflected in the regulations in 21 CFR 524.2101. This application is approved on the basis of

generic equivalence to the NAS/NRC reviewed product. It conforms to the NAS/NRC panel recommendations published in the FEDERAL REGISTER of September 5, 1970 (35 FR 14168).

Approval of this application does not constitute reevaluation of the NAS/NRC recommendations for use on dogs as a cleansing agent.

In accordance with the freedom of information regulations and § 514.11(e)(2)(ii) of the animal drug regulations (21 CFR 514.11(e)(2)(ii)), summary of the safety and effectiveness data and information submitted to support approval of this application is released publicly. The summary is available for public examination at the office of the Hearing Clerk (HFA-305), Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, from 9 a.m. to 4 p.m., Monday through Friday.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), part 524 is amended in § 524.2101 by revising paragraph (b)(2) to read as follows:

§ 524.2101 Selenium disulfide suspension.

(b) * * *

(2) See Nos. 015563 and 011536 in § 510.600(c)(2) of this chapter for use as in paragraph (c)(2)(ii) of this section.

Effective date. This regulation becomes effective October 24, 1978.

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

Dated: October 16, 1978.

TERENCE HARVEY,
Acting Director, Bureau of
Veterinary Medicine.

[FR Doc. 78-29879 Filed 10-23-78; 8:45 am]

[4410-02-M]

Title 28—Judicial Administration

CHAPTER I—DEPARTMENT OF JUSTICE

[AAG/A Order No. 15-78]

PART 16—PRODUCTION OR DISCLOSURE OF MATERIAL OR INFORMATION

Subpart E—Exemption of Records Systems Under the Privacy Act

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: On August 17, 1978, the Department of Justice published in the FEDERAL REGISTER a proposal to amend 28 CFR 16.96(b)(2), Exemption of Federal Bureau of Investigation Systems—Limited Access, as it relates to the Federal Bureau of Investigation Central Records System (Justice/FBI-002). The amendment will add a sentence to supplement the published reasons for exempting the Central Records System from subsection (d) of the Privacy Act.

DATES: The rule will be effective October 24, 1978.

ADDRESS: Administrative Counsel, Office of Management and Finance, Department of Justice, 10th and Constitution Avenue NW., Washington, D.C. 20530.

FOR FURTHER INFORMATION CONTACT:

Kevin D. Rooney, 202-739-4165.

SUPPLEMENTARY INFORMATION: The system was last published in full text on July 21, 1978. On August 27, 1975, the Department published a notice establishing the system. On the same day the Department published a rule exempting the system from subsections (c) (3) and (4), (d), (e) (1), (2), and (3), (e)(4) (G) and (H), (e) (5) and (8), (f), (g), and (m) of the Privacy Act pursuant to 5 U.S.C. 552a (j) and (k). While justification for exemption from the access provisions of subsection (d)(1) was given, the reasons for exemption from the record amendment provisions of subsection (d) (2), (3), and (4) of the Privacy Act were not given. This amendment will correct that omission. No comments have been received regarding the proposed regulations.

Pursuant to the authority vested in the Attorney General by 5 U.S.C. 552a and delegated to me by Attorney General Order No. 793-78, the proposed regulations are adopted without change as set forth below.

§ 16.96 Exemption of Federal Bureau of Investigation Systems—Limited Access.

(2) From subsections (c)(4), (d), (e)(4) (G) and (H), (f), and (g) because these provisions concern individual access to records and such access might compromise ongoing investiga-

tions, reveal investigatory techniques and confidential informants, and invade the privacy of private citizens who provide information in connection with a particular investigation. In addition, exemption from subsections (d), (e)(4) (G) and (H) is necessary to protect the security of information classified in the interest of national defense and foreign policy. In addition, exemption from subsection (d) is necessary because to require the agency to correct or otherwise amend information thought to be incorrect, irrelevant or untimely might, because of the nature of the information collected and the essential length of time it is maintained, create an impossible administrative and investigative burden by forcing the agency to continuously retrograde its investigations in an attempt to resolve questions of accuracy, etc.

Dated: October 13, 1978.

KEVIN D. ROONEY,
Assistant Attorney General
for Administration.

[FR Doc. 78-29912 Filed 10-23-78; 8:45 am]

[3810-71-M]

Title 32—National Defense

CHAPTER VI—DEPARTMENT OF THE NAVY

SUBCHAPTER B—NAVIGATION

PART 706—CERTIFICATIONS AND EXEMPTIONS UNDER THE INTERNATIONAL REGULATIONS FOR PREVENTING COLLISIONS AT SEA, 1972

USNS "Powhatan"; Amendment

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS) to reflect that the Secretary of the Navy: (1) Has determined that USNS *Powhatan* (T-ATF 166) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with annex I, section 2(f) of the 72 COLREGS without interfering with its

special function as a naval tug, and (2) has authorized the use of exemptions allowed in 72 COLREGS' rule 38(a), 38(b) and 38(d)(i) by USNS *Powhatan*. The intended effect of this rule is to warn mariners in waters where the 72 COLREGS apply.

EFFECTIVE DATE: October 2, 1978.

FOR FURTHER INFORMATION CONTACT:

Lt. Comdr. M. D. Seiders, JAGC, USN, Admiralty Division, Office of the Judge Advocate General, Navy Department, Washington, D.C., telephone 202-694-5188.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605 and Executive Order 11964, the Department of the Navy amends 32 CFR Part 706. This amendment provides notice that the Secretary of the Navy has certified that USNS *Powhatan* (T-ATF 166) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with 72 COLREGS annex I, section 2(f) in that, during those situations when the masthead lights used for towing required by rule 24 and the vessel not under command or vessel restricted in its ability to maneuver task lights required by rule 27 are displayed simultaneously, the masthead lights used for towing will not be located above and clear of the rule 27 task lights. Full compliance with this provision would interfere with the special function of the ship. The Secretary of the Navy has also certified that the lights previously mentioned are located in closest possible compliance with the applicable 72 COLREGS' requirement.

Notice is also provided to the effect that the Secretary of the Navy has authorized the use by T-ATF 166 class of certain exemptions permitted by 72 COLREGS rule 38. Specifically, the use of the exemptions has been au-

thorized as allowed in rule 38(a), pertaining to lights with ranges and intensities prescribed in rule 22, rule 38(b), pertaining to lights with color specifications prescribed in annex I, section 7, and rule 38(d)(i), pertaining to the repositioning of masthead lights on vessels less than 150 meters in lengths required by annex I, section 3(a).

The Secretary of the Navy has determined that USNS *Powhatan* is a member of the T-ATF 166 class, is in compliance with the 1960 rules of the road, and its keel was laid prior to July 15, 1977.

Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary and contrary to the public interest since it is based on technical findings that the placement of lights on this ship in a manner different from that prescribed herein will adversely affect the ship's ability to perform its military function. Accordingly, 32 CFR Part 706 is amended as follows:

§ 706.2 [Amended]

1. Table four of § 706.2 is amended by adding the following new note 10 which reflects the certification issued by the Secretary of the Navy:

10. On USNS *Powhatan* T-ATF 166, the masthead lights used for towing required by rule 24 will be displayed approximately 3.7 meters below the lowest of the lights required to be displayed by rule 27 when a vessel is not under command or is restricted in its ability to maneuver.

§ 706.3 [Amended]

2. The fifth table one of § 706.3 is amended as follows to indicate exemptions authorized by the Secretary of the Navy:

Vessel or class	Lights with ranges in rule 22, 4 yrs; rule 38(a)	Lights with color specs in § 7, annex I, 4 yrs; rule 38(b)	Repositioning of masthead lights, vessels less than 150 meters, in § 3(a), annex I, permanent; rule 38(d)(i)	***
USNS Myer (T-ARC 6) * * *				
T-ATF 166 class.....	X	X	X	

Dated: October 2, 1978.

R. JAMES WOOLSEY,
Under Secretary of the Navy.

[FR Doc. 78-29913 Filed 10-23-78; 8:45 am]

[3810-71-M]

PART 706—CERTIFICATIONS AND EXEMPTIONS UNDER THE INTERNATIONAL REGULATIONS FOR PREVENTING COLLISIONS AT SEA, 1972

**U.S.S. "New York City" (SSN 696);
Amendment**

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS) to reflect that the Secretary of the Navy: (1) Has determined that U.S.S. *New York City* (SSN 696) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with certain provisions of the 72 COLREGS without interfering with its special functions as a naval submarine, and (2) has found that U.S.S. *New York City* (SSN 696) is a member of the SSN 688 class of ships, exemptions for which have previously been granted under 72 COLREGS Rule 38. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: October 6, 1978.

FOR FURTHER INFORMATION CONTACT:

Lt. Comdr. M. D. Seiders, JAGC, USN Admiralty Division, Office of the Judge Advocate General, Navy Department, Washington, D.C., telephone 202-694-5188.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in Executive Order 11964 and 33 U.S.C. 1605, the Department of the Navy amends 32 CFR Part 706. This amendment to part 706 provides notice that the Secretary of the Navy has certified that U.S.S. *New York City* (SSN 696) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with 72 COLREGS: Rule 21(c) regarding the arc of visibility and location of the stern light; annex I, section 2(a)(i) regarding the height of the masthead light; annex I, section 2(k) regarding the height and relative positions of the anchor lights; and annex I section 3(b) regarding the location of the sidelights. Full compliance with the above-mentioned 72 COLREGS provisions would interfere with the special function of the ship. The Secretary of the Navy has also certified that the above-mentioned lights are located in closest

possible compliance with the applicable 72 COLREGS requirements.

Notice is also provided to the effect that U.S.S. *New York City* (SSN 696) is a member of the SSN 688 class of ships for which certain exemptions, pursuant to 72 COLREGS Rule 38, have been previously authorized by the Secretary of the Navy. The exemptions pertaining to that class, found in the existing tables of § 706.3, are equally applicable to U.S.S. *New York City*.

Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amend-

ment for public comment prior to adoption is impracticable, unnecessary and contrary to public interest since it is based on technical findings that the placement of lights on this ship in a manner differently from that prescribed herein will adversely affect the ship's ability to perform its military function. Accordingly, 32 CFR Part 706 is amended as follows:

§ 706.2 [Amended]

1. The third table one of § 706.2 is amended as follows to indicate certifications issued by the Secretary of the Navy:

Vessel	Number	Distance in meters of forward masthead light below minimum required height: § 2(a)(i) annex I
U.S.S. Birmingham.	SSN 695 * * *	
U.S.S. New York City.	SSN 696	3.49

2. The fourth Three of § 706.2 is amended as follows to indicate certifications issued by the Secretary of the Navy:

Vessel	Number	Masthead light, arc of visibility; rule 21(a)	Sidelights, arc of visibility; rule 21(b)	Stern light, arc of visibility; rule 21(c)	Sidelights, distance inboard of ship's sides in meters; § 3(b) annex I	Stern light, distance forward of stern in meters; rule 21(c)	Forward anchor light, height above hull in meters; § 2(K), annex I	Anchor lights, relationship of forward light in meters; § 2(K), annex I
U.S.S. Birmingham.....	SSN-695 * * *							
U.S.S. New York City.....	SSN-696			209°	4.3	6.1	3.4	1.7 below

Effective Date: The effective date of this amendment will be October 6, 1978.

Dated: October 6, 1978.

Dated: 6 October, 1978.

D. E. MANN,
Acting Secretary of the Navy.

[FR Doc. 78-29914 Filed 10-23-78; 8:45 am]

[6560-01-M]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

[FRL 977-1]

PART 65—DELAYED COMPLIANCE ORDERS

Delayed Compliance Order for Interlake, Inc., Toledo, Ohio

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: By this rule, the Administrator of EPA issues a delayed compliance order to Interlake, Inc. The order requires Interlake to bring air emissions from its coke battery at Toledo, Ohio, into compliance with certain regulations contained in the federally approved State implementation plan (SIP). Interlake's compliance with the order will preclude suits under the Federal enforcement and citizen suit provisions of the Clean Air Act for violations of the SIP regulations covered by the order.

EFFECTIVE DATE: This rule takes effect October 24, 1978.

FOR FURTHER INFORMATION CONTACT:

Robert B. Hurwitz, Attorney, U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Ill. 60604, telephone 312-353-2082.

SUPPLEMENTARY INFORMATION: On June 28, 1978, the Acting Regional Administrator of EPA's region V office published in the FEDERAL REGISTER a notice setting out the provisions of a proposed Federal delayed compliance order for Interlake, Inc. The notice asked for public comments and offered the opportunity to request a public hearing on the proposed order. No public comments and no request for a public hearing were received in response to the proposed notice.

Therefore, a delayed compliance order effective this date is issued to Interlake, Inc., by the Administrator of EPA pursuant to the authority of section 113(d)(2) of the Clean Air Act, 42 U.S.C. 7413(d)(2). The order places Interlake on a schedule to bring its coke battery at Toledo, Ohio, into compliance as expeditiously as practi-

cable with regulations AP-3-07 and AP-3-12, parts of the federally approved Ohio State implementation plan. Interlake is unable to immediately comply with these regulations. The order also imposes interim requirements which meet sections 113(d)(1)(C) and 113(d)(7) of the Act, and emission monitoring and reporting requirements. If the conditions of the order are met, it will permit Interlake to delay compliance with the SIP regulations covered by the order until July 1, 1979.

Compliance with the order by Interlake will preclude Federal enforcement action under section 113 of the Act for violations of the SIP regulations covered by the order. Citizen suits under section 304 of the Act to enforce against the source are similarly precluded. Enforcement may be initiated, however, for violations of the terms of the order, and for violations of the regulations covered by the the order which occurred before the order was issued by EPA or after the order is terminated. If the Administrator determines that Interlake is in violation of a requirement contained in the order, one or more of the actions required by section 113(d)(9) of the Act

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will be initiated. Publication of this notice of final rulemaking constitutes final Agency action for the purposes of judicial review under section 307(b) of the Act.

The provisions of the order will be summarized, as set forth below, in 40 CFR Part 65. The provisions of 40 CFR Part 65 will be promulgated by EPA soon, and will contain the procedure for EPA's issuance, approval, and disapproval of an order under section 113(d) of the Act. In addition, part 65 will contain sections summarizing orders issued, approved, and disapproved by EPA. A prior notice proposing regulations for part 65, published at 40 FR 149876 (Apr. 2, 1975), will be withdrawn, and replaced by a notice promulgating these new regulations.

NOTE.—EPA has determined that the order shall be effective upon publication of this notice because of the need to immediately place Interlake on a schedule for compliance with the Ohio State implementation plan.

(AUTHORITY: 42 U.S.C. 7413(d), 7601.)

Source	Location	Order No.	Date of FR proposal	SIP regulation involved	Final compliance date
Interlake, Inc.,	Toledo, Ohio,	EPA-5-78-A-24...	June 28, 1978.	AP-3-07.....	July 1, 1979

[FR Doc. 78-29837 Filed 10-23-78; 8:45 am]

[6820-24-M]

Title 41—Public Contracts and Property Management

CHAPTER 101—FEDERAL PROPERTY MANAGEMENT REGULATIONS

SUBCHAPTER G—TRANSPORTATION AND MOTOR VEHICLES

[FPMR Temp. Reg. G-37]

APPENDIX—TEMPORARY REGULATIONS

Changes in Requirements for Reporting Motor Vehicle Data

AGENCY: General Services Administration, Federal Supply Service.

ACTION: Temporary regulation.

SUMMARY: This regulation deletes the requirement for agencies to report motor vehicle data on standard form 82, Agency Report of Motor Vehicle Data. The changes in reporting requirements prescribed by this regula-

Dated: October 17, 1978.

BARBARA BLUM,
Acting Administrator.

In consideration of the foregoing, Chapter I of Title 40 of the Code of Federal Regulations is amended as follows:

PART 65—DELAYED COMPLIANCE ORDERS

1. By amending the table in § 65.400 by adding the following entry:

§ 65.400 Federal delayed compliance orders issued under section 113(d) (1), (3), and (4) of the Act.

The delayed compliance orders referenced below have been issued by the Administrator in accordance with section 113(d) of the Act and with this part. With regard to each order, the Administrator has made all the determinations and findings which are necessary for issuance of the order under section 113(d) of the act.

tion reflect recommendations made by the Interagency Motor Equipment Management Committee and will simplify and improve the collection and reporting of data needed to evaluate and analyze the operations and management of the Federal motor vehicle fleet.

DATES: Effective date: October 24, 1978. Expiration date: June 30, 1979.

FOR FURTHER INFORMATION CONTACT:

Mr. John I. Tait, Director, Regulations and Management Control Division, Office of the Executive Director, Federal Supply Service, General Services Administration, Washington, D.C. 20406, 703-557-1914.

SUPPLEMENTARY INFORMATION: FPMR Temporary Regulation G-34 (43 FR 5437, February 8, 1978) is canceled and deleted from the appendix at the end of Subchapter G in 41 CFR Chapter 101.

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

In 41 CFR Chapter 101, the following temporary regulation is listed in the appendix at the end of Subchapter G.

[Federal Property Management Regs.;
Temporary Reg. G-37].

CHANGES IN REQUIREMENTS FOR REPORTING MOTOR VEHICLE DATA

1. **Purpose.** This regulation deletes the requirement for submitting standard form 82-D, Agency Report of Sedan Data, and requires that supplemental data be submitted with standard form 82, Agency Report of Motor Vehicle Data.

2. **Effective date.** This regulation is effective October 24, 1978.

3. **Expiration date.** This regulation expires June 30, 1979, unless revised or superseded sooner.

4. **Applicability.** This regulation applies to all executive agencies holding or using Government-owned or commercially leased motor vehicles.

5. **Background.** a. FPMR 101-38.100-1 requires the use of standard forms 82 and 82-D by agencies for reporting motor vehicle management data to GSA. The data is used by GSA to evaluate and analyze the operations and management of the Federal motor vehicle fleet.

b. The Interagency Motor Equipment Management Committee (IMEMC) was appointed in December of 1977, to study motor vehicle reporting requirements and to recommend changes to simplify the collection and reporting of the data. IMEMC has completed the study and recommended the following:

(1) Standard form 82 be revised to include additional inventory data on agency-held and leased sedans and station wagons by class;

(2) The revised standard form 82 be made available for the fiscal year 1979 report;

(3) Standard form 82-D be canceled immediately; and

(4) The report for fiscal year 1978 be submitted on the current edition of standard form 82 and that supplemental motor vehicle data be submitted along with the form.

6. **Changes in reporting requirements.** a. Executive agencies are no longer required to submit standard form 82-D and should dispose of any remaining stock of the form.

b. The May 1972 edition of standard form 82 shall be used by executive agencies for reporting motor vehicle data to GSA for fiscal year 1978. In addition to submitting a completed standard form 82, agencies shall report year-ending inventory data listed below in the format shown.

*NOTE. FPMR Temporary Regulation G-36 concerned a delegation of authority to the Administrator of the National Aeronautics and Space Administration and was distributed only to the National Aeronautics and Space Administration.

INVENTORY DATA

Vehicle class	Agency-held		Leased	
	Sedans	Station wagons	Sedans	Station wagons
Small 1/A.....				
Subcompact 1/B.....				
Compact II.....				
Midsized III.....				
Large IV.....				
Limousine V.....				

c. Standard form 82 will be revised to reflect the changes recommended by the Interagency Motor Equipment Management Committee (IMEMC). The revised form will be available for the fiscal year 1979 report. To provide the data on the revised standard form 82, beginning October 1, 1978, agencies shall collect inventory data on light trucks that are 4 x 2 or 4 x 4 and less than 8,500 GVWR; regular trucks that are 4 x 2 or 4 x 4 and 8,500 to 12,499 GVWR; trucks 12,500 to 23,999 GVWR; and trucks 24,000 GVWR or more. No acquisition costs or disposal proceeds will be required on the revised standard form 82. Interagency motor pool system (IMPS) data will be furnished by GSA. Vehicle years and cost data are required for commercially leased vehicles that are leased for 60 days or more. Trip rental data are not required. Cost data for accidents and total direct, total indirect, and total cost will be required.

7. *Effect on other directives.* This regulation supersedes the requirements for use of standard form 82-D prescribed in FPMR 101-38.100-1 and cancels FPMR temporary regulation G-34.

JAY SOLOMON,
Administrator of
General Services.

OCTOBER 10, 1978.

[FR Doc. 78-29858 Filed 10-23-78; 8:45 am]

[4110-02-M]

Title 45—Public Welfare

CHAPTER I—OFFICE OF EDUCATION,
DEPARTMENT OF HEALTH, EDUCATION,
AND WELFARE

PART 154—EDUCATIONAL
OPPORTUNITY CENTERS

Final Regulations; Correction

AGENCY: Office of Education, HEW.
ACTION: Correction, final regulations.

SUMMARY: In the regulations published in the FEDERAL REGISTER on May 14, 1976, pages 19949-19950, a technical correction needs to be made.

The document is corrected as follows: On page 19950, first column, item (7), last line (ii) should be changed to (iii).

FOR FURTHER INFORMATION CONTACT:

Barbara W. Freeman, telephone 202-245-2511.

Dated: October 18, 1978.

L. D. TAYLOR,
Deputy Assistant Secretary for
Management Analysis and Systems.
[FR Doc. 78-29964 Filed 10-23-78; 8:45 am]

[4310-55-M]

Title 50—Wildlife and Fisheries

CHAPTER I—UNITED STATES FISH
AND WILDLIFE SERVICE, DEPARTMENT
OF THE INTERIOR

PART 32—HUNTING

Opening of Aransas National Wildlife
Refuge, Tex., to Hunting of Migratory
Birds and of Resident Game
Species

AGENCY: U.S. Fish and Wildlife Service, Department of the Interior.

ACTION: Final rule.

SUMMARY: This rule adds Aransas National Wildlife Refuge, Tex., to the refuge areas open for the hunting of migratory game birds and of resident game species. The Director has determined that this action would be in accordance with the provisions of all laws applicable to the area, would be compatible with the principles of sound wildlife management, would otherwise be in the public interest, and that such use is compatible with the management objectives established for the refuge. Hunting, subject to annual special regulations, will provide additional public recreational opportunities.

EFFECTIVE DATE: November 4, 1978.

FOR FURTHER INFORMATION CONTACT:

Donald G. Young, Division of National Wildlife Refuges, U.S. Fish and Wildlife Service, Washington, D.C. 20240, 202-343-4307.

SUPPLEMENTARY INFORMATION: Donald G. Young is also the primary author of this final rule. As a general rule, most areas within the National Wildlife Refuge System are closed to hunting until officially opened by regulation. On September 13, 1978, there was published (43 FR 40893) a notice of proposed rulemaking adding Aransas National Wildlife Refuge, Tex., to hunting of migratory game birds and resident game species. The public was provided a 17-day comment period and was advised that pursuant to the requirements of §102(2)(c) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332(2)(c), an environmental assessment has been prepared on this proposal, which is available for public inspection and copying at room 2342, Department of the Interior, 18th and C Streets NW., Washington, D.C. 20240, or by mail, addressing the Director at the address given above. On the basis of this assessment, the Director has determined that this rulemaking does not constitute a major Federal action significantly affecting the human environment.

Two letters of comment were received concerning the proposed regulation—one of objection and one of agreement. The following points of objection were cited.

(1) The hunting would have an adverse impact on the endangered whooping crane.

Response: The area open to hunting does not include established critical habitat for the endangered whooping crane. An "Intra-Service Consultation Procedure" pursuant to section 7 of the Endangered Species Act of 1973, was conducted. The Director has determined that this action will not affect any endangered species or their habitat. Whooping cranes have never been recorded on the area proposed for hunting.

(2) The time period for public comment was too short.

Response: Special circumstances are involved in the promulgation of this rulemaking which limit the amount of time the Service can allow for public comment. Opening dates for State hunting seasons are rapidly approaching and the public interest would not be served by delaying the opening of the refuge unnecessarily.

(3) The proposal should have a public hearing and an Environmental Impact Statement.

Response: An environmental impact statement is not deemed necessary by the Fish and Wildlife Service. Reasons for the decision are: (a) The proposal will not have a significant impact on the environment, and (b) hunting on Aransas National Wildlife Refuge is not deemed a major Federal action significantly affecting the quality of the

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human environment. An environmental assessment statement and the section 7 consultation are considered adequate.

The second letter gave full support to this proposal.

Because of the time limitation involved to coordinate the State and Federal hunting regulations for the cooperative hunting program, and the rapid approach of the hunting season, the U.S. Fish and Wildlife Service has concluded that "good cause" exists within the meaning of 5 U.S.C. 553(d)(3), the Administrative Procedure Act to expedite the implementation of this rulemaking; therefore, the effective date of this final rule is November 4, 1978.

Accordingly, after consideration of all interests and concerns, 50 CFR Part 32 is amended by the addition of Aransas National Wildlife Refuge as follows:

§ 32.11 List of open areas; migratory game birds.

TEXAS

ARANSAS NATIONAL WILDLIFE REFUGE

§ 32.21 List of open areas; upland game.

TEXAS

ARANSAS NATIONAL WILDLIFE REFUGE

Dated: October 18, 1978.

ROBERT S. COOK,
Acting Director,
Fish and Wildlife Service.

[FR Doc. 78-29889 Filed 10-23-78; 8:45 am]

proposed rules

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

[3410-02-M]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 971]

LETTUCE GROWN IN LOWER RIO GRANDE VALLEY IN SOUTH TEXAS

Proposed Handling Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed regulation would impose pack, container and inspection requirements on shipments of lettuce grown in the Lower Rio Grande Valley in South Texas. The regulation, if issued, should promote orderly marketing of such lettuce by standardizing the pack of lettuce shipped to consumers.

DATE: Comments due November 8, 1978.

ADDRESSES: Comments should be sent to: Hearing Clerk, Room 1077-S, U.S. Department of Agriculture, Washington, D.C. 20250. Two copies of all written comments must be submitted; the comments will be made available for public inspection at the office of the Hearing Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Washington, D.C. 20250. Telephone: 202-447-6393.

SUPPLEMENTARY INFORMATION: Marketing Agreement No. 144 and Marketing Order No. 971 regulate the handling of lettuce grown in the Lower Rio Grande Valley in South Texas. This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The South Texas Lettuce Committee, established under the order, is responsible for its local administration.

This notice is based upon the recommendations made by the committee at its public meeting in McAllen, Tex., on October 12, 1978.

The recommendations of the committee reflect its appraisal of the

1978-79 lettuce crop and marketing prospects for the season.

The South Texas lettuce industry as well as other lettuce shipping areas are accustomed to operating on a 6 day shipping week. The experience has been that a 6 day shipping week is adequate for 5 days distribution in terminal markets. Therefore, proposed "packaging holidays" on Sundays would promote more orderly marketing.

The proposed pack and container requirements are in accord with the generally accepted commercial practices of the South Texas lettuce industry of packing specified numbers of heads of lettuce in specific sized containers limited to those found acceptable to the trade for safe transportation of the lettuce, and would prevent deceptive practices.

No purpose would be served by regulating the pack or requiring the inspection and assessment of insignificant quantities of lettuce. Therefore quantities up to two cartons of lettuce per day would be exempt from such requirements.

Proposed provisions with respect to special purpose shipments, including export, are designed to meet the different requirements for export and noncommercial domestic trade. Because of the production area's proximity to the Mexican border, Mexican buyers have been accustomed to acquiring small lots of production area lettuce for their home market. These buyers utilize lettuce which fails to meet the pack and container requirements. Inasmuch as such shipments have a negligible effect on the domestic market, they should be permitted provided certain safeguard requirements are met.

The proposal is as follows:

§ 971.319 Handling regulation.

During the period November 20, 1978, through March 31, 1979, no person shall handle any lot of lettuce grown in the production area unless such lettuce meets the requirements of paragraphs (a), (b), (c), and (d) of this section, or unless such lettuce is handled in accordance with paragraphs (e) or (f) of this section. Further, no person may package lettuce during the above period on any Sunday.

(a) [Reserved]

(b) *Pack.* (1) Lettuce heads, packed in container Nos. 7303, 7306, or 7313, if

wrapped may be packed only 18, 20, 22, 24, or 30 heads per container; if not wrapped, only 18, 24, or 30 heads per container.

(2) Lettuce heads in container No. 85-40 may be packed only 24 or 30 heads per container.

(c) *Containers.* Containers may be only the following depth, width and length respectively:

(1) Cartons with inside dimensions of 10 inches × 14½ inches × 21½ inches (designated as carrier container No. 7303), or

(2) Cartons with inside dimensions of 9¾ inches × 14 inches × 21 inches (designated as carrier container No. 7306), or

(3) Cartons with inside dimensions of 14 inches × 9¾ inches × 21 inches (designated as carrier container No. 7313), or

(4) Cartons with inside dimensions of 10¾ inches × 16½ inches × 21½ inches (designated as carrier container No. 85-40—flat pack).

(d) *Inspection.* (1) No handler shall handle lettuce unless such lettuce is inspected by the Texas-Federal Inspection Service and an appropriate inspection certificate has been issued for it, except when relieved of such requirement by paragraphs (e) or (f) of this section.

(2) No handler may transport by motor vehicle, or cause the transportation of, any shipment of lettuce for which inspection is required unless each such shipment is accompanied by a copy of an appropriate inspection certificate or shipment release form (SPI-23) furnished by the inspection service verifying that such shipment meets the current grade, pack and container requirements of this section. A copy of such inspection certificate or shipment release form shall be available and surrendered upon request to authorities designated by the committee.

(3) For administration of this part, such inspection certificate or shipment release form required by the committee as evidence of inspection is valid for only 72 hours following completion of inspection, as shown on such certificate or form.

(e) *Minimum quantity.* Any person may handle up to, but not to exceed two cartons of lettuce a day without regard to inspection, assessment, grade, and pack requirements. This exception may not be applied to any

shipment of over two cartons of lettuce.

(f) *Special purpose shipments.* The pack, container, and inspection requirements of this section shall not be applicable to shipments as follows:

(1) For relief, charity, experimental purpose, or export to Mexico, if a handler presents a certificate of privilege for such lettuce prior to handling it, pursuant to §§ 971.120-971.125; and

(2) For export to Mexico, if the handler of such lettuce loads and transports it only in a vehicle bearing Mexican registration (license).

(g) *Definitions.* (1) "Wrapped" heads of lettuce refers to those which are enclosed individually in parchment, plastic, or other commercial film and then packed in cartons or other containers.

(2) Other terms used in this section have the same meaning as when used in Marketing Agreement No. 144 and this part.

Dated October 18, 1978.

JOHN J. GARDNER,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 78-29888 Filed 10-23-78; 8:45 am]

[3410-34-M]

Animal and Plant Health Inspection Service

[9 CFR Part 113]

VIRUSES, SERUMS, TOXINS, AND ANALOGOUS PRODUCTS

Revision of Viricidal Activity Test

AGENCY: Animal and Plant Health Inspection Service (USDA).

ACTION: Proposed rule.

SUMMARY: This proposed amendment would revise the standard test procedure that is used to assure that certain liquid biological products that are used as diluents for desiccated live virus vaccines are free of viricidal activity. It would also simplify that test procedure by reducing the number of virus titrations required and would allow for greater flexibility by providing for the general use of single-fraction vaccines and for alternate methods of titration in the test without affecting the validity of the results.

DATE: Comments must be received on or before December 19, 1978.

ADDRESS: Interested parties are invited to submit written data, views, or arguments regarding the proposed regulations to: Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 828-A, Federal Building, Hyattsville, Md. 20782.

FOR FURTHER INFORMATION CONTACT:

Dr. R. J. Price, 301-436-8245.

SUPPLEMENTARY INFORMATION: The present standard test procedure for the detection of viricidal activity found in § 113.35 of the standards requires that titration of vaccine rehydrated with the liquid product being tested and vaccine rehydrated with sterile purified water (which is used for comparison purposes as a control) be conducted at zero hour and 2 hours after rehydration. Experience with this test since it became effective (5 years) indicates that titrations conducted at zero hour are not necessary for interpretation results. This amendment would simplify the test by deleting these titrations, thus reducing the total number by 50 percent.

Presently § 113.35 provides that in testing vaccines containing more than one desiccated fraction, each such fraction must be tested (the other fraction or fractions being neutralized or diluted).

However, licensees are presently permitted to use representative single-fraction vaccines in this test provided they are licensed to produce such vaccines. This amendment would provide greater flexibility in this regard by also permitting the preparation of unlicensed single-fraction vaccines for use in the test if authorized by the Deputy Administrator.

The present test procedure specifies that titrations shall be conducted using 1.0 log₁₀ dilutions and a minimum of 10 substrate units per dilution. This amendment would delete that requirement and would permit the use of titration methods described in a filed outline of production or in an applicable standard requirement. This would add flexibility to the testing procedures by permitting the use of other satisfactory methods of titration.

Section 113.35 would be revised to read as follows:

§ 113.35 Detection of viricidal activity.

The test for detection of viricidal activity provided in this section shall be conducted when such a test is prescribed in an applicable standard requirement or in the filed outline of production for each inactivated liquid biological product used as diluent for a desiccated live virus vaccine in a combination package.

(a) Bulk or final container samples of completed product from each serial shall be tested.

(b) The product shall be tested with each virus fraction for which it is to be used as a diluent. If the vaccine to be rehydrated contains more than one virus fraction, the test shall be conducted with each fraction after neu-

tralization of the other fraction(s) and/or dilution of the vaccine beyond the titer range of the other fraction(s) or the test shall be conducted using representative single-fraction desiccated vaccines which are prepared by the licensee and which are licensed.

Provided, that the Deputy Administrator may authorize licensees to prepare and use unlicensed single-fraction vaccines for this purpose.

(c) **Test procedure:**

(1) Rehydrate at least two vials of the vaccine with the liquid product under test according to label recommendations and pool the contents.

(2) Rehydrate at least two vials of the vaccine with the same volume of sterile purified water and pool the contents.

(3) Neutralize to remove other fractions, if necessary.

(4) Hold the two pools of vaccine at room temperature (20-25° C) for 2 hours. The holding period shall begin when rehydration is completed.

(5) Tritrate the virus(es) in each pool of vaccine as provided in the filed outline of production or an applicable standard requirement.

(6) **Compare respective titers.**

(d) If the titer of the vaccine virus(es) rehydrated with the product under test is 0.7 log₁₀ or more below the titer of the vaccine virus(es) rehydrated with sterile purified water, the product is unsatisfactory for use as diluent.

(e) If the product is unsatisfactory in the first test, one retest to rule out faulty techniques may be conducted using four vials of the vaccine for each pool and the acceptability of the product judged by the results of the second test.

(f) Liquid products found to be unsatisfactory for use as diluent by this test are not prohibited from release as separate licensed products if labeled as prescribed in § 112.7(h).

All written submissions made pursuant to this notice will be made available for public inspection at the address listed in this document during regular hours of business (8 a.m. to 4:30 p.m., Monday to Friday, except holidays) in a manner convenient to the public business (7 CFR 12.7(b)).

Done at Washington, D.C., this 17th day of October 1978.

NOTE.—The Animal and Plant Health Inspection Service has determined that this document does not contain a major proposal requiring preparation of an inflation impact statement under Executive Order 11821 and OMB Circular A-107.

PIERRE A. CHALOUX,
Deputy Administrator,
Veterinary Services.

[FR Doc. 78-29775 Filed 10-23-78; 8:45 am]

[1505-01-M]

**NATIONAL CREDIT UNION
ADMINISTRATION**

[12 CFR Part 703]

INVESTMENTS AND DEPOSITS

Investment Activities of Federal Credit Unions

Correction

In FR Doc. 78-29213 in the issue of Thursday, October 17, 1978, appearing at page 47731, make the following changes:

(1) On page 47731, in the second column, in paragraph "3. *Forward Placement Contracts (Forwards)*" in the 15th line the word "delivery" should read "delivering".

(2) On page 47732, in the second column, in paragraph "5. *Repurchase Agreements*," in the 6th line the semi-colon after the word, "transaction" should be a comma.

(3) On page 47734, in the third column, in the 9th line, the cite "12 U.S.C. 1557" should read as "12 U.S.C. 1757".

[6750-01-M]

FEDERAL TRADE COMMISSION

[16 CFR Part 13]

[File No. 751-0026]

FEDERAL SIGNAL CORP.

**Consent Agreement With Analysis To Aid
Public Comment**

AGENCY: Federal Trade Commission.

ACTION: Provisional consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and unfair methods of competition, this provisionally accepted consent agreement, among other things, would require a Chicago, Ill. manufacturer and seller of public safety and communication equipment, to cease, in connection with the sale of such products to governmental entities, from exchanging bidding information with its distributors prior to submission of competitive bids, submitting or soliciting the submission of collusive bids, or otherwise engaging in any practice that may hinder or prevent competitors from bidding successfully. The firm would also be required to cease furnishing governmental bodies seeking to purchase civil defense warning systems with advertisements or specifications that might induce these entities to limit distribution of invitation to bid; incorporate the name or model number of firm's products into advertisements for bids or specifications; or draft specifications that would restrain, lessen, or

prevent the sale of such devices by others.

DATE: Comments must be received on or before December 21, 1978.

ADDRESS: Comments should be directed to: Office of the Secretary, Federal Trade Commission, Sixth Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT:

Paul C. Daw, Director, Denver Regional Office, Federal Trade Commission, Suite 2900, 1405 Curtis Street, Denver, Colo. 80202. 303-837-2271.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's rules of practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist and an explanation thereof, having been filed with and provisionally accepted by the Commission, has been placed on the public record, together with material submitted to the Commission that is not exempt from public disclosure under the Freedom of Information Act, for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(14) of the Commission's rules of practice (16 CFR 4.9(b)(14)).

[File No. 751-0026]

FEDERAL SIGNAL CORP.

**AGREEMENT CONTAINING CONSENT ORDER TO
CEASE AND DESIST**

The Federal Trade Commission having initiated an investigation of certain acts and practices of Federal Signal Corp., a corporation, (hereinafter "Federal" or respondent) and it now appearing that Federal is willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated.

It is hereby agreed by and between Federal, by its duly authorized officer, and its attorney, and counsel for the Federal Trade Commission that:

1. Federal is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at 120 South Riverside Plaza, Chicago, Ill. 60606.
2. Federal admits all the jurisdictional facts set forth in the draft of complaint here attached.
3. Federal waives:
 - (a) Any further procedural steps;
 - (b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and
 - (c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

4. This agreement shall not become a part of a public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it, together with the draft of complaint contemplated thereby and related materials, pursuant to rule 2.34, will be placed on the public record for a period of 60 days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the respondent, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by Federal that the law has been violated as alleged in the draft of complaint here attached.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's rules, the Commission may, without further notice to proposed respondent, (1) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding, and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified, or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Mailing of the complaint and decision containing the agreed-to order to proposed respondent's address shall constitute service. Proposed respondent waives any right it may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or in the agreement may be used to vary or contradict the terms of the order.

7. Federal has read the complaint and the order contemplated hereby. It understands that once the order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the order, and that it may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

ORDER

I

It is ordered that respondent, Federal Signal Corp., its subsidiaries, successors, assigns, officers and directors, and respondent's agents, representatives and employees, individually or in concert with others, directly or indirectly, or through any corporate or other device, in connection with the distribution, offering for sale, or sale of Signal Division products by Federal or any of its distributors, to public bodies on a competitive bidding basis, in or affecting commerce as "commerce" is defined in the Federal Trade Commission Act, shall forthwith cease and desist from:

1. Exchanging information with any of its distributors, prior to any bid being submitted on any particular project, concerning:

PROPOSED RULES

(a) The intent to submit or not to submit a bid; or

(b) The price(s) that will be bid;

2. Entering into any agreement or understanding with any of its distributors, prior to any bid being submitted on any particular project, concerning:

(a) The intent to submit or not to submit a bid;

(b) The type of equipment that will be bid;

(c) The price(s) that will be bid; or

(d) The party which will submit the low bid;

3. Submitting or soliciting the submission of any collusive bid;

4. Allocating or attempting to allocate customers among respondent and its distributors: *Provided*, That respondent may furnish the name of one or more of its distributors to any buyer or prospective buyer of respondent's products.

II

It is further ordered, That respondent, in connection with the distribution, offering for sale, or sale of civil defense warning systems by Federal or any of its distributors, to public bodies on a competitive bidding basis, in or affecting commerce as "commerce" is defined in the Federal Trade Commission Act, shall forthwith cease and desist from:

1. Furnishing, directly or indirectly, prior to the submission of any written bid, any written specifications to such public body (other than specifications established by any department of the Federal Government) to be substantially incorporated into materials used to obtain or evaluate bids;

2. Influencing or attempting to influence any such public body to:

(a) Limit the distribution of invitations to bid to respondent and/or its distributors;

(b) Incorporate the name or model number of any of respondent's products into advertisements for bids or specifications used to obtain or evaluate bids;

(c) Draft specifications which disqualify sellers of competitive products from bidding effectively;

3. Preparing any part of any advertisement for bids or specification used by a public body to obtain or evaluate bids.

Nothing contained in part II of the order shall prohibit respondent from conducting surveys of civil defense warning system needs for public bodies and providing quotations containing descriptions of civil defense warning systems and estimated costs. All such quotations shall contain the following statement in close proximity to the product description:

"Civil defense warning systems produced by other manufacturers may provide adequate coverage for the area surveyed even though such systems may contain differing numbers of sirens having different decibel ratings or functioning in a different manner. The names and addresses of other recognized manufacturers of civil defense warning systems will be provided upon request."

It is further ordered, That respondent, upon request by a public body, provide the names and addresses of all other manufacturers of civil defense warning systems known to respondent.

III

It is further ordered, That respondent, for a period of 5 years from the date of service of this order:

1. Institute a continuing surveillance program to insure that its distributors of civil defense warning systems are not engaging in any act or practice which, if engaged in by respondent, would violate paragraphs 1, 2, or 3 of part II of this order;

2. Upon receiving information indicating that any of its distributors of civil defense warning systems has engaged in any such act or practice, respondent shall obtain the written assurance of such distributor that such conduct shall not again occur. If the distributor fails to provide such written assurance, respondent shall forthwith cease and desist from supplying civil defense warning systems to such distributor;

3. Upon ascertaining that a distributor, after having given such written assurance, has again engaged in any such act or practice, forthwith cease and desist from supplying civil defense warning systems to such distributor.

IV

It is further ordered, That respondent, for a period of three years from the date of service of this order, in connection with each bid on civil defense warning systems submitted to a public body:

(1) Include a copy of the letter set forth in appendix A hereto and a copy of this order with each such bid; and

(2) Maintain a file concerning each such bid, such file to include a copy of the bid and accompanying letter, all work papers used in computing the bid, and a copy of each document furnished to the public body involved.

The files described herein shall be made available for Commission inspection upon reasonable notice.

V

It is further ordered, That respondent shall within thirty days after service upon it of this order, distribute a copy of the order to each of the respondent's operating divisions, to each of its present corporate officers and to each domestic sales representative in the Signal Division, and to its future corporate officers and Signal Division domestic sales representatives within 5 days of their assumption of office or employment with respondent corporation.

VI

It is further ordered, That respondent shall notify the Commission at least thirty days prior to any proposed change in its organization, such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries, or any other change in the corporation which may affect compliance obligations arising out of this order.

It is further ordered, That the respondent shall within sixty days after service upon it of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with this order.

Signed this 29th day of November, 1977.

Federal Signal Corporation, a corporation.

KARL F. HOENECKE,
Chairman and President, 1415 West
22d Street, Oak Brook, Ill. 60521.

GARY L. MOWDER,
Attorney for proposed respondent.

JOHN T. HANKINS,
Counsel for Federal Trade
Commission.

DAVID J. RICHMAN,
Counsel for Federal Trade
Commission.

Approved: December 9, 1977.

PAUL C. DAW,
Acting Regional Director.

APPENDIX A

(Official Stationery of Federal Signal Corp.)

Dear _____: Federal Signal Corp. has entered into a consent agreement with the Federal Trade Commission concerning the company's competitive bidding practices. The agreement is for settlement purposes only and does not constitute an admission of any law violations. Part I of the order issued pursuant to the agreement applies to the sale of all Signal Division products. Parts II, III, and IV apply to sales of civil defense warning systems.

A copy of the order issued by the Commission is enclosed. If, in connection with this bid or at any time in the future, you believe that Federal has engaged in any of the practices prohibited by the order, report the details in writing to: Federal Trade Commission, Washington, D.C. 20580. You are also requested, at your option, to send a copy of any such letter to:

Federal Signal Corp., Attention: President.

Very truly yours,

(Name)
President
Federal Signal Corp.

FEDERAL SIGNAL CORP., FILE NO. 751 0026

ANALYSIS OF PROPOSED CONSENT ORDER TO AID
PUBLIC COMMENT

The Federal Trade Commission has accepted an agreement to a proposed consent order from Federal Signal Corp., Chicago, Ill., a manufacturer and seller of public safety and communication equipment.

The proposed consent order and material submitted by Federal Signal Corp. to the Commission that is reasonably related to the merits of the order and is not exempt from disclosure under the Freedom of Information act have been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

The proposed complaint alleges that respondent, prior to submitting bids on public safety and communications equipment to government bodies, exchanged information and entered into agreements with its distributors concerning the terms of such bids. The proposed complaint also charges that respondent has submitted and solicited the submission of collusive bids on particular projects and has entered into agreements

with its distributors allocating customers among respondent and its distributors.

The proposed complaint further alleges that in connection with the sale of civil defense warning systems to governmental bodies, Federal has adopted and maintained various business practices to restrain, lessen or prevent the sale of warning systems by others engaged in the manufacture or sale of such products. The complaint alleges that:

(1) Respondent has participated in the preparation of advertisements soliciting bids and the specifications used to obtain and evaluate bids with the purpose and effect of hindering or preventing competitors from bidding effectively; and

(2) Respondent has submitted bids, and solicited its distributors to submit bids, which are not intended to secure business but are intended to hinder or prevent competitors from bidding successfully.

The proposed consent order prohibits respondent, prior to the submission of competitive bids on public safety and communications equipment to governmental bodies, from entering into agreements or exchanging information with its distributors concerning the intent to submit or not submit a bid or the prices that will be bid. The order further prohibits respondent from submitting and soliciting the submission of collusive bids and from allocating or attempting to allocate customers among respondent and its distributors.

Respondent is also ordered to cease and desist from furnishing written specifications to public bodies seeking bids on civil defense warning systems prior to the submission of any written bid. Respondent is further ordered to cease and desist from influencing or attempting to influence the public body to: (1) Limit the distribution of invitations to bid; (2) incorporate the name or model number of any of respondent's products into advertisements for bids or specifications; or (3) draft specifications which prevent sellers of competitive products from bidding effectively.

The order further enjoins respondent from preparing any part of any advertisement or specification used by public bodies to obtain and evaluate bids on civil defense warning systems. Respondent is also ordered to institute a continuing surveillance program to insure that none of its distributors are engaging in any acts or practices which if engaged in by the respondent would violate the portion of the order relating to civil defense warning systems.

The terms of the consent order will have the effect of removing restraints on competition between Federal, its distributors, and other manufacturers of public safety and communications equipment including civil defense warning systems. Ultimately this action should lead to lower prices to the purchasers of public safety and communications equipment, many of which are funded by the public.

The purpose of this analysis is to facilitate public comment on the proposed order and it is not intended to constitute an official interpretation of the terms of the agreement and proposed order or to modify the terms in any manner.

JAMES A. TOBIN,
Acting Secretary.

[FR Doc. 78-29895 Filed 10-23-78; 8:45 am]

[1505-01-M]

FEDERAL TRADE COMMISSION

[16 CFR Part 13]

[File No. 782 3066]

HERTZ CORP.

Consent Agreement With Analysis To Aid Public Comment

Correction

In FR Doc. 78-29261 appearing at page 47736 in the issue for Tuesday, October 17, 1978, on page 47738, in the third column, in the paragraph beginning "In addition to * * *" the last line should read as follows: "prior to the date * * *".

[4110-07-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration

[20 CFR Parts 404 and 416]

OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM

Determinations, Appeals, and Representation of Parties, Employment, Wages, Self-Employment, Self-Employment Income Rights and Benefits Based on Disability

SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND AND DISABLED

Determinations of Disability or Blindness, Income and Exclusions, Determinations, Appeals, and Representation of Parties

AGENCY: Social Security Administration, HEW.

ACTION: Notice of decision to develop regulations.

SUMMARY: The Social Security Administration is rewriting and reorganizing several subparts of the regulations under titles II and XVI of the Social Security Act. The objectives are: (1) To meet the Department's "Operation Common Sense" standards by making the regulations clearer and easier to understand; (2) to remove provisions that are obsolete and rarely applicable; and (3) as appropriate, to examine the policies and consider additions, revisions, and clarifications.

The regulations presently being rewritten are:

(1) *20 CFR Part 404, Subpart J, and 20 CFR Part 416, Subparts N and O.* Included in these subparts are the regulations on determinations, appeals, reopening of determinations, and representation of parties for social security benefits under title II and for supplemental security income benefits under title XVI.

(2) *20 CFR Part 404, Subpart K.* The regulations in this subpart describe

the types of employment and self-employment that are included and excluded for purposes of social security coverage under title II.

(3) *20 CFR Part 404, Subpart P, and 20 CFR Part 416, Subpart I.* These regulations include the rules for determining disability under title II, and for determining disability and blindness under title XVI.

(4) *20 CFR Part 416, Subpart K.* The regulations in this subpart cover what is "income" and how much income to count in determining eligibility for supplemental security income benefits, and the amount of those benefits, under title XVI.

The rewriting of subpart K of 20 CFR Part 404 has been classified as "technical," since no changes in current policies regarding employment and self-employment are planned. The others have been classified by the Department as "policy significant," since there may be some policy additions and clarifications.

FOR FURTHER INFORMATION CONTACT:

Charles Rollins, Room 4234, West High Rise Building, 6401 Security Boulevard, Baltimore, Md. 21235, 301-594-6666.

Dated: October 14, 1978.

Approved:

STANFORD G. ROSS,
Commissioner of Social Security.

[FR Doc. 78-29829 Filed 10-23-78; 8:45 am]

[4510-30-M]

DEPARTMENT OF LABOR

Employment and Training Administration

[20 CFR Part 614]

UNEMPLOYMENT COMPENSATION FOR EX-SERVICEMEN

New Schedule of Remuneration

AGENCY: Employment and Training Administration, Labor.

ACTION: Proposed rule.

SUMMARY: The Department of Labor proposes to amend 20 CFR 614.19, to increase the monthly rates of remuneration in the Schedule of Remuneration used to compute the Federal wages of ex-servicemen and women covered by the program of Unemployment Compensation for Ex-Servicemen (UCX program). It is a program of unemployment benefits for individuals who are separated from military service and are unable to obtain work. The new schedule will apply to new claims that are filed on and after January 1, 1979.

DATES: Comments: All comments on this proposal must be received on or before November 24, 1978. Proposed effective date: January 1, 1979, with respect to first claims filed on and after that date.

ADDRESSES: Send comments on this proposal to the U.S. Department of Labor, Employment and Training Administration, Room 7000, Patrick Henry Building, 601 "D" Street NW., Washington, D.C. 20213.

All comments received will be available for public inspection during normal business hours, in room 7000 at the above address.

FOR FURTHER INFORMATION CONTACT:

Robert B. Edwards, Acting Administrator, Unemployment Insurance Service, Employment and Training Administration, U.S. Department of Labor, 601 "D" Street NW., Washington, D.C. 20213, telephone: 202-376-7032.

SUPPLEMENTARY INFORMATION: The UCX program was established by the "Ex-Servicemen's Unemployment Compensation Act of 1958," and is now codified at subchapter II of chapter 85, in title 5 of the United States Code (5 U.S.C. 8521-8525). It is a program of unemployment benefits for individuals who are separated from military service and are unable to obtain work.

In most unemployment compensation programs, the benefit amounts payable to claimants are computed on the basis of the wages paid to each claimant in a designated base period. For the UCX program, the statute provides that benefit amounts shall be computed on the basis of wages as prescribed in the current Schedule of Remuneration.

Section 8521(a)(2) requires the Secretary of Labor to issue, from time to time, after consultation with the Secretary of Defense, a Schedule of Remuneration specifying the pay and allowances for each pay grade of members of the military services, which reflect representative amounts for appropriate elements of the pay and allowances whether in cash or in kind.

A Schedule of Remuneration adopted in accordance with the law has been published from time to time as changes in military pay and allowances occur, and appears in 20 CFR 614.19. These schedules adopted from time to time are made effective for new claims filed on and after the effective date of each new schedule, and new claims established under a prior schedule are not changed.

The new Schedule of Remuneration proposed in this document adjusts the scheduled monthly rates of pay upward to reflect the military pay increase that became effective on October 1, 1978, under Executive Order

12087. As was the case with the current Schedule of Remuneration in 20 CFR 614.19, it is proposed to make the new schedule set forth in this document effective with respect to first claims which are filed after the end of this year; that is, new claims filed on and after January 1, 1979. As stated in the preamble of the proposal for the current schedule (42 FR 60166), the purpose is to regularize the Effective dates of new schedules and this would stabilize administration of the UCX program and be fairer to claimants.

In order to accomplish the goal of making the new schedule effective at the beginning of next year, and consider any comments received before the new schedule is put into effect, it is necessary to limit the comment period to 30 days.

NOTE.—The Department of Labor has determined that the proposal in this document will not have major economic effects requiring the preparation of a regulatory analysis under Executive Order 12044 and applicable authority.

This document was prepared under the direction and control of Robert B. Edwards, Acting Administrator, Unemployment Insurance Service, Employment and Training Administration, U.S. Department of Labor, 601 "D" Street NW., Washington, D.C. 20213, telephone: 202-376-7032.

Accordingly, it is proposed to revise 20 CFR 614.19 to read as follows:

§ 614.19 Schedule of Remuneration.

(a) The following Schedule of Remuneration is issued pursuant to 5 U.S.C. 8521(a)(2), and shall apply to first claims which are filed after December 31, 1978:

Pay grade	Monthly rate
(1) Commissioned officers:	
O-10.....	\$4,973
O-9.....	4,969
O-8.....	4,678
O-7.....	4,129
O-6.....	3,412
O-5.....	2,797
O-4.....	2,307
O-3.....	1,935
O-2.....	1,535
O-1.....	1,142
(2) Warrant officers:	
W-4.....	2,184
W-3.....	1,757
W-2.....	1,527
W-1.....	1,332
(3) Enlisted personnel:	
E-9.....	1,873
E-8.....	1,614
E-7.....	1,393
E-6.....	1,177
E-5.....	995
E-4.....	845
E-3.....	754
E-2.....	706
E-1.....	645

(b) The Schedule of remuneration published at 42 FR 65483 remains applicable to first claims filed prior to the effective date of the new schedule of Remuneration set forth in paragraph (a). The new schedule in para-

graph (a) does not revoke the prior schedule or any preceding schedule or change the periods of time they were in effect.

(5 U.S.C. 8508, 8521(a)(2).)

Signed at Washington, D.C., on October 18, 1978.

ERNEST G. GREEN,
Assistant Secretary for
Employment and Training.

[FR Doc. 78-29956 Filed 10-23-78; 8:45 am]

[6560-01-M]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 65]

[FRL 986-5]

STATE AND FEDERAL ADMINISTRATIVE ORDERS PERMITTING A DELAY IN COMPLIANCE WITH STATE IMPLEMENTATION PLAN REQUIREMENTS

Proposed Disapproval of an Administrative Order Issued by the Virginia State Air Pollution Control Board to Jewell Coal & Coke Co.

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA proposes to disapprove an administrative order issued by the Virginia State Air Pollution Control Board ("SAPCB") to Jewell Coal & Coke Co. ("Jewell"). The order requires the company to bring air emissions from its plant No. 1 coke ovens in Vansant, Va., into compliance with certain regulations contained in the federally approved Virginia State Implementation Plan (SIP) by May 31, 1979. Because the order has been issued to a major source and permits a delay in compliance with provisions of the SIP, it must be approved by EPA before it becomes effective as a delayed compliance order under the Clean Air Act (the Act). If approved by EPA, the order will constitute an addition to the SIP. In addition, a source in compliance with an approved order may not be sued under the Federal enforcement or citizen suit provisions of the Act for violations of the SIP regulations covered by the Order. The purpose of this notice is to invite public comment on EPA's proposed disapproval of the order as a delayed compliance order.

DATE: Written comments must be received on or before November 24, 1978.

ADDRESS: Comments should be submitted to Director, Enforcement Division, EPA, Region III, Sixth and Walnut Streets, Philadelphia, Pa. 19106. The State order, supporting material, and public comments re-

ceived in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT:

Mr. Gary Gross, at the address above or telephone 215-597-8907.

SUPPLEMENTARY INFORMATION: Jewell Coal & Coke Co. operates a nonrecovery type coke plant at Vansant, Va. The order under consideration addresses emissions from 168 Mitchell coke ovens (designated plant No. 1) at the facility, which are subject to §§ 4.20 and 4.40 of the regulations for the control and abatement of air pollution. The regulations limit the emissions of particulate and visible emissions, and are part of the federally approved Virginia State Implementation Plan. The order requires final compliance with the regulations by May 31, 1979, through installation of common tunnel afterburners on each oven, a state-of-the-art quench tower using clean water make-up, and a coke side shed with a baghouse air pollution control device. The order is based on control programs proposed by Jewell.

On October 21, 1974, the SAPCB issued a special order to Jewell requiring shutdown of plant No. 1 by June 30, 1975. This order was based on a unanimous agreement among Jewell, the SAPCB, and EPA that no control technique was both feasible and sufficient to achieve compliance with the SIP. Subsequently, the SAPCB deferred the date for final compliance with the special order on five separate occasions. In December 1977, Jewell stated for the first time that, based on a preliminary evaluation by their engineering consultant and ongoing experimentation with control techniques at plant No. 2, plant No. 1 could be modified to operate in compliance with the SIP. On March 21 and 22, 1978, Jewell conducted particulate emission tests on four prototype ovens retrofitted with common tunnel afterburners. Observations made by EPA and SAPCB personnel as well as the quantitative results of those tests indicated that compliance with the applicable regulations was, in fact, possible. On June 5, 1978, the SAPCB, after notice and public hearing, approved the subject order.

Because this order has been issued to a major source of particulate emissions and permits a delay in compliance with the applicable regulation, it must be approved by EPA before it becomes effective as a delayed compliance order under section 113(d) of the Clean Air Act (the Act). EPA may approve the order only if it satisfies the appropriate requirements of this subsection.

EPA presently believes that provisions of sections 113(d)(1)(D), relating to final compliance, and 113(d)(7), relating to interim emission reductions, have not been satisfied. Both of these findings are based on EPA observations of special work practices employed by Jewell during the March 1978 stack tests and the Agency's judgment that such work practices are an essential part of Jewell's demonstration of ability to comply with the SIP. Although the order provides that these work practices must be reduced to writing and agreed upon by Jewell and the SAPCB, it does not provide for incorporation of these practices into the order nor does it provide for EPA approval of the work practices. EPA cannot approve an order which specifies that terms necessary to meet the requirements of the Act will be agreed upon by other parties without EPA review and approval.

If the order is approved by EPA, source compliance with its terms would preclude Federal enforcement action under section 113 of the Act against the source for violations of the regulation covered by the order during the period the order is in effect. Enforcement against the source under the citizen suit provision of the Act (sec. 304) would be similarly precluded. If approved, the order would also constitute an addition to the Virginia SIP.

All interested persons are invited to submit written comments on the proposed order. Written comments received by the date specified above will be considered in determining whether EPA may approve the order. After the public comment period, the Administrator of EPA will publish in the FEDERAL REGISTER the Agency's final action on the order in 40 CFR Part 65. (42 U.S.C. 7413, 7601.)

Dated: October 2, 1978.

JACK J. SCHRAMM,
Regional Administrator,
Region III.

[FR Doc. 78-28836 Filed 10-23-78; 8:45 am]

[6560-01-M]

[40 CFR Part 180]

[FRL 993-4; PP 8E2111/P93]

TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Proposed Tolerance for the Pesticide Chemical O,O-Dimethyl S-[(4-oxo-1,2,3-Benzotriazin-3(4H)-yl)methyl] Phosphorodithioate

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice proposes that a tolerance be established for residues of the insecticide *O,O*-dimethyl S-[(4-oxo-1,2,3-benzotriazin-3(4H)-yl)methyl] phosphorodithioate on kiwi fruit. The proposal was submitted by Mobay Chemical Corp. This regulation would establish a maximum permissible level for residues of the subject insecticide on kiwi fruit.

DATE: Comments must be received on or before November 24, 1978.

ADDRESS COMMENTS TO: Federal Register Section, Program Support Division (TS-757), Office of Pesticide Programs, EPA, Room 401, East Tower, 401 M Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Mr. Timothy A. Gardner, Product Manager (PM)15, Registration Division (TS-767), Office of Pesticide Programs, EPA, 202-426-9425.

SUPPLEMENTARY INFORMATION: Mobay Chemical Corp., Chemagro Agricultural Division, P.O. Box 4913, Kansas City, Mo. 64120, has submitted a pesticide petition (PP 8E2111) to the EPA. This petition requests that the Administrator propose that 40 CFR 180.154 be amended by the establishment of a tolerance for the cholinesterase-inhibiting residues of the insecticide *O,O*-dimethyl S-[(4-oxo-1,2,3-benzotriazin-3(4H)-yl)methyl] phosphorodithioate in or on raw agricultural commodity kiwi fruit at 10 parts per million (ppm).

The data submitted in the petition and other relevant material have been evaluated. No toxicology data accompanied this petition. All toxicology data requirements were referenced in this action. The toxicology data referenced in the petition in support of the proposed tolerance included a rabbit teratology study (negative at 0.75 milligram (mg)/kilogram (kg) of body weight (bw), a 30-day subacute neurotoxicity study (negative at 100 ppm)(highest level fed), a rat acute oral lethal dose (LD₅₀) study of 5-6 mg/kg bw, 2-year dog and rat feeding studies (both with a 5 ppm noobservable effect level (NOEL), a three generation reproduction study in mice (negative at 5 mg/kg bw)(highest level fed), and a teratology study in rats

and mice (negative at 5 mg/kg bw)(highest level fed).

Based on the NOEL in the rat 2-year feeding study and using a ten-fold safety factor, the acceptable daily intake (ADI) is 0.025 mg/kg bw day. The theoretical maximal residue contribution (TMRC) from the tolerances which have been previously established for residues of the insecticide on a variety of raw agricultural commodities at levels ranging from 10 ppm to 0.04 ppm represents approximately 45 percent of the ADI. The increment in TMRC from the requested tolerance on kiwi fruit is negligible; the ADI will not be exceeded by the existing established and proposed tolerances.

The nature of the residue in kiwi fruit is adequately understood from data on other crops, and an adequate analytical method (spectrophotometric determination) is available for enforcement purposes. There are no feed items involved with this petition so there is no expectation of secondary residues in meat, milk, poultry, or eggs as delineated in 40 CFR 180.6(a)(3).

A recently completed oncogenicity study performed by the National Cancer Institute indicated that the compound had no oncogenic potential in one rodent species, while, in a second species, the data were inconclusive and insufficient to judge the potential oncogenicity of the subject pesticide. Although the results of the study warrant a retesting in rats to clarify the remaining uncertainty raised by the present study, the currently available data together with the small increment in human exposure from kiwi fruit lead to the conclusion that an unacceptable risk is not associated with the subject pesticide's residues on kiwi fruit and that the tolerance of 10 ppm on kiwi fruit established by amending 40 CFR 180.154 will protect the public health. Additionally, there are no actions currently pending against continued registration of the subject pesticide, nor any other considerations involved in establishing the proposed tolerance. The pesticide is considered useful for the purpose for which a tolerance is being sought. Therefore, it is proposed that the tolerance be established as set forth below.

Any person who has registered or submitted an application for the registration of a pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act, which contains any of the ingredients listed herein, may request on or before November 24, 1978, that this rulemaking proposal be referred to an advisory committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the pro-

posed regulation. The comments must bear a notation indicating both the subject and the petition document control number, "PP 8E2111/P93." All written comments filed in response to this notice of proposed rulemaking will be available for public inspection in the Office of the Federal Register Section from 8:30 a.m. to 4 p.m. Monday through Friday.

Dated: October 17, 1978.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

(Sec. 408(e) Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(e)).)

It is proposed that part 180, subpart C, § 180.154 be amended by alphabetically inserting kiwi fruit at 10 ppm in the table to read as follows:

§ 180.154 0,0-Dimethyl S-[(4-oxo-1,2,3-benzotriazin-3(4H)-yl)methyl] phosphorodithioate; tolerances for residues.

Commodity	Parts per million
Kiwi fruit.....	10

[FR Doc. 78-29834 Filed 10-23-78; 8:45 am]

[6820-24-M]

GENERAL SERVICES ADMINISTRATION

Federal Property Resources Service

[41 CFR Part 101-42]

PRECIOUS METAL RECOVERY

Recovery of Precious Metals and Strategic and Critical Materials

AGENCY: General Services Administration.

ACTION: Proposed rule.

SUMMARY: Notice is hereby given that the General Services Administration (GSA) proposes to amend the Federal Property Management Regulations by requiring more frequent surveying and reporting by agencies to GSA of their precious-metal-generating activities and by revising the current reporting format to require information on types of silver or other precious-metal-bearing scrap processed or generated, estimates of potential silver recovery yield and method of estimation, explanation for any lack of recovery, and actions planned to maximize recovery. The first semiannual report

utilizing this format shall be for the first half of fiscal year 1979. A standard form is being developed for agency use in reporting, and will be announced when it becomes available. These measures are being proposed as a result of a U.S. General Accounting Office report dated December 28, 1977, entitled "Additional Precious Metals Can Be Recovered" (LCD-77-228), which recommended that GSA take action to improve Federal agency silver recovery programs. The changes proposed herein will, by requiring more frequent and detailed surveying and reporting of data by agencies to GSA, improve the management of Federal agency silver recovery programs.

DATES: Comments are due on or before December 31, 1978.

ADDRESS: Written comments should be sent to: General Services Administration (DP), Washington, D.C. 20405.

FOR FURTHER INFORMATION CONTACT:

Mr. William S. Eckert Director, Property Rehabilitation Division, Office of Personal Property, Federal Property Resources Service, General Services Administration, Washington, D.C. 20405, 703-557-1743.

It is proposed to amend part 101-42 by revising subparts 101-42.3 and 101-42.48 as follows:

Subpart 101-42.3—Recovery of Precious Metals and Strategic and Critical Materials

§ 101-42.300 Scope of subpart.

This subpart prescribes the policy and procedures for recovery of precious metals and strategic and critical materials from articles of excess personal property.

§ 101-42.301 General.

GSA is responsible for the initiation of Government-wide precious metals and strategic and critical materials recovery programs, and for the issuance and administration of applicable contracts, except those issued and administered by the Department of Defense (DOD) for precious metal recovery and refinement operations. Situations will occur where, in terms of economy, efficiency, and environmental quality, it is in the best interest of the Government to recover precious metals and strategic and critical materials from articles of excess personal property instead of using other methods of disposal. GSA will determine when Government-wide recovery is appropriate on the basis of an evaluation of the supply-demand factor, the price of the commodity, the cost of recovering the precious metal or strategic and critical material, and applicable guidelines or regulations on pollution control. Pre-

precious metals that may be designated for recovery are gold, silver, and metals in the platinum group. Examples of silver-bearing scrap and waste include used photographic fixing (hypo) solution, photographic and X-ray film, silver alloys, and dental scrap. Strategic and critical materials, lists of which may be issued from time to time as provided in §101-14.106, also may be designated for recovery.

§ 101-42.301-1 Guidelines for conducting agency surveys and reporting to GSA

Each agency having activities that generate silver or other precious metals (including used hyposolution, scrap film, and other precious-metal-bearing scrap) shall survey each of those activities regarding precious metals recovery and potential recovery information and shall submit a consolidated semiannual report (based on fiscal year) on that information to the General Services Administration (DPR), Washington, D.C. 20405. The consolidated report shall be submitted within 45 calendar days after the end of each half fiscal year reporting period. Each agency shall designate an individual to be responsible for coordinating the surveys, implementing and improving recovery procedures, monitoring the recovery programs, and submitting the consolidated report to GSA. Section 101-42.4801 illustrates a suggested format for the report (inter-agency report control No. 1529-GSA-SA). The report shall contain specific information regarding the types of silver or other precious-metal-bearing scrap processed or generated; the number of activities generating silver or other precious-metal-bearing scrap and quantity generated; the estimated amounts potentially recoverable and method of estimation; the number of activities recovering precious metals from such scrap and quantity generated; the amount of precious metals recovered in troy ounces; the type of recovery equipment and method of disposition of recovered silver; the method of disposal if precious metals are not recovered; the explanation for any lack of recovery; the agency estimate of dollar savings for the report period; and any actions planned to maximize recovery.

§ 101-42.301-2 [Deleted]

§ 101-42.302 Recovery of silver from used hypo solution and scrap film.

Heads of executive agencies shall be responsible for establishing, maintaining, and pursuing a program for silver recovery from used hypo solution and scrap film.

§ 101-42.302-1 Agency responsibility.

Each agency shall consider recovering silver regardless of the quantity of

used hyposolution or scrap film generated. Installation of a silver recovery unit consistent with the quantity of used hyposolution generated or storage of used hyposolution or scrap film until a processable quantity is obtained are two alternatives. If an activity generates small quantities of hyposolution and tests show that there is a minimal amount of silver per gallon of solution, arrangements should be made with another activity in the area, which is using a recovery unit, to receive and process its used hyposolution to the extent feasible. When consolidation with other activities is not practicable and information and assistance with regard to recovery techniques are required, the GSA regional office serving the area or the Defense Logistics Agency (DLA) (in accordance with § 101-42.303) should be contacted. If it is determined that the silver cannot be recovered economically by Government-owned equipment or by a commercial recovery contractor, the solution or scrap film should be disposed of in accordance with part 101-45 and in an environmentally acceptable manner.

§ 101-42.302-2 General guidelines for the recovery of silver from used hypo solution.

The basic factors that determine the potential quantity of recoverable silver are: (a) The amount of used hyposolution generated; (b) the amount and type of film processed; and (c) the physical layout of the photographic facility. Since these factors may vary for each activity, a single method of recovery cannot be prescribed. Used hyposolution should be processed to recover the maximum amount of silver from the solution, consistent with overall economic feasibility and environmental considerations. Recovery can be effected either by Government-owned equipment or through use of commercial recovery contracts. Metallic replacement or electrolytic methods may be used. Various types of recovery equipment are available which permit economic silver recovery from both large and small quantities of used hypo solution.

§ 101-42.302-3 General guidelines for the recovery of silver from scrap film.

Scrap film, the silver content of which varies according to the type of film and degree of exposure, is a source for recovery. A common method of recovery is periodic disposal of accumulated film by sale in accordance with part 101-45. Another method of recovering silver is through the destruction of scrap film by burning and reducing it to ash, which can provide economy through savings in transportation costs as well as the conservation of the silver. This must be

done by controlled burning without an open flue. Recovery on site by this method should be accomplished only at those activities or installations where adequate facilities exist and the local code on burning permits it.

§ 101-42.302-4 Detailed guidelines for recovery of silver from used hyposolution and scrap film.

Detailed guidelines and economic criteria for evaluating silver recovery potential and establishing recovery programs are contained in the GSA pamphlet "Guide for the Recovery of Silver from Used Fixing Solution and Scrap Film" (FPMR 101-42.3), copies of which may be obtained from GSA regional offices or from agency publications liaison officers.

§ 101-42.303 Recovery and utilization of precious metals through the Defense precious metals recovery program.

Civilian agencies may utilize the Defense precious metals recovery program as prescribed in this § 101-42.303.

§ 101-42.303-1 Recovery of precious metals through the Defense Property Disposal Precious Metals Recovery Office (DPDPMRO).

Civilian agency activities which generate precious-metal-bearing scrap may utilize DPDPMRO, which is a part of DLA. Accumulations of precious-metal-bearing scrap such as silver-cell batteries, missile and electronic parts, silver turnings, dental scrap, film scrap, and silver sludge recovered from used hyposolution, should be reported by letter to the Chief, Defense Property Disposal Precious Metals Recovery Office, Naval Weapons Station, Earle, Colts Neck, N.J. 07722, with a request for shipping instructions. Shipping instructions will be furnished the activity by the DPDPMRO within 30 calendar days following receipt of the request. Participating civilian agencies are entitled to requisition refined precious metals for use as Government-furnished material (GFM) to reduce new procurement costs in accordance with § 101-42.303-2. For additional information or recovery assistance, DLA may be contacted at the following address: DOD Precious Metals Recovery Program Manager, Cameron Station, Alexandria, Va. 22314.

§ 101-42.303-2 Utilization of DOD-recovered precious metals as Government-furnished material (GFM) in Federal procurements.

To determine the need for recovered precious metals as GFM to reduce new procurement costs, each agency shall review procurements for which precious metals will be required by a contractor. Each agency having requirements for refined precious metals as

GFM should submit a request to the Commander, Defense Industrial Supply Center, 700 Robbins Avenue, Philadelphia, Pa. 19111. Each agency requesting precious metals under the DOD precious metals recovery program shall also contribute any generated accumulations of silver, gold, and platinum to the DPDPMRO in accordance with § 101-42.303-1. Normally, the amount of precious metals authorized for sale to individual agencies will not exceed the quantity of such refined metals derived from the agency contributions of precious-metal materials to the program. Exceptions to this limitation will be made on a case-by-case basis if refined metals on hand exceed DOD requirements. No minimum ordering quantity is prescribed. There is a nominal charge for the refined precious metals to cover the administrative and processing costs; however, such costs are substantially lower than the current market price of fine silver, gold, and platinum.

Subpart 101-42.48—Exhibits

§ 101-42.4800 Scope of subpart.

This subpart exhibits information referenced in the text of this part 101-42 that is not suitable for inclusion elsewhere in that part.

§ 101-42.4801 Format for semiannual consolidated report to GSA on activities generating precious metals.

Agency _____
 Address _____
 Period covered _____
 Date _____
 Report prepared by _____
 Telephone _____

1. *Used hyposolution.*
 - a. Type(s) of film processed: X-ray, motion picture, other (specify).
 - b. Number of activities generating used hyposolution —. Gallons generated —.
 - c. Estimated amount of silver potentially recoverable (in troy ounces) —.
 - d. Method of estimation.
 - e. Number of activities from b, above, which are recovering silver from used hyposolution —. Gallons generated —.
 - f. Amount of silver recovered (in troy ounces) —.
 - g. Method of recovery (equipment used) and disposition of recovered silver.
 - h. Method of disposal of used hyposolution for those activities not recovering silver.
 - i. Explanation for any lack of recovery.
2. *Scrap film.*
 - a. Type(s) of scrap film generated: X-ray, motion picture, other (specify).
 - b. Number of activities generating scrap film —. Pounds generated —.
 - c. Estimated amount of silver potentially recoverable (in troy ounces) —.
 - d. Method of estimation.
 - e. Number of activities from b, above, which are recovering silver from scrap film —. Pounds generated —.
 - f. Amount of silver recovered (in troy ounces) —.

- g. Method of recovery (equipment used) and disposition of recovered silver.
 - h. Method of disposal of scrap film for those activities not recovering silver.
 - i. Explanation for any lack of recovery.
3. *Other silver-bearing scrap.*
 - a. Type(s) of other silver-bearing scrap (batteries, electronic parts, etc.).
 - b. Number of activities generating other silver-bearing scrap —. Pounds generated —.
 - c. Estimated amount of silver potentially recoverable (in troy ounces) —.
 - d. Method of estimation.
 - e. Number of activities from b, above, which are recovering silver from other silver-bearing scrap —. Pounds generated —.
 - f. Amount of silver recovered (in troy ounces) —.
 - g. Method of recovery (equipment used) and disposition of recovered silver.
 - h. Method of disposal of other silver-bearing scrap for those activities not recovering silver.
 - i. Explanation for any lack of recovery.
 4. *Other precious metal-bearing scrap (gold, platinum metals, etc.).* (Please provide the information requested in this section for each type of precious metal generated other than silver.)
 - a. Type(s) of other precious-metal-bearing scrap.
 - b. Number of activities generating other precious-metal-bearing scrap —. Pounds generated —.
 - c. Estimated amount of the precious metal potentially recoverable (in troy ounces) —.
 - d. Method of estimation.
 - e. Number of activities from b, above, which are recovering the precious metal from such scrap —. Pounds generated —.
 - f. Amount of the precious metal recovered (in troy ounces) —.
 - g. Method of recovery (equipment used) and disposition of the recovered precious metal.
 - h. Method of disposal of other precious-metal-bearing scrap for those activities not recovering such metal.
 - i. Explanation for any lack of recovery.
 5. *Estimated dollar savings for the period for each category reported and description of the formula used to compute the savings.*
 6. *Actions planned by agency to maximize recovery.*
- NOTE.—The format illustrated in this section shall be used as a guide for individual preparation pending GSA's development of a standard form for this purpose. When the form becomes available, an announcement will be made.

§ 101-42.4802 [Reserved]

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

Dated: October 10, 1978.

ROY MARKON,
 Commissioner, Federal
 Property Resources Service.

[FR Doc. 78-29859 Filed 10-23-78; 8:45 am]

[6712-01-M]

FEDERAL COMMUNICATIONS COMMISSION

[47-CFR Part 15]

[BC Docket No. 78-307; FCC 78-665]

TELEVISION RECEIVER EQUIPMENT GRADING

Inquiry Initiated

AGENCY: Federal Communications Commission.

ACTION: Notice of inquiry initiated.

SUMMARY: An inquiry into how the Commission might increase the amount of information available to the consumer about the performance of television receivers was instituted. A desire to bring about improvement in receiver performance as a substitute for or a complement to contemplated programs, such as the adoption of comprehensive performance standards as part of the FCC certification requirements, resulted in Agency initiation of this proceeding. This inquiry may lead to the adoption of a program of grading of all television receivers and the labeling of receivers with their performance characteristics.

DATES: Comments must be received before February 1, 1979, and reply comments must be received before March 1, 1979.

ADDRESS: Federal Communications Commission, Office of Chief Engineer, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Will McGibbon, 202-632-7060.

In the matter of television receiver equipment grading, BC docket No. 78-307.

Adopted: September 22, 1978.

Released: October 20, 1978.

By the Commission: Commissioners Lee and Fogarty absent.

INTRODUCTION

1. The Federal Communications Commission (FCC) is initiating this inquiry to determine whether a program of television receiver grading would be in the public interest. The FCC has consistently sought to improve television reception.¹ Even if other FCC action results in new receiver standards, some receiver models will be

¹The FCC is taking several interrelated actions, which we anticipate will result in improved television reception by the general public, and possibly provide other benefits. Briefly, these actions are: Report and Order in Docket No. 21010, UHF Television Receiver Noise Figures, FCC 78-582, 43 FR 36096 (Aug. 15, 1978) at par. 10. This order will change the noise figure standard to 12 dB by 1982.

better suited for some reception conditions than others. Unfortunately, most consumers lack the necessary information to select the television receiver and antenna system which best meets their particular needs. In this inquiry, the FCC will investigate ways to improve reception by helping consumers to better choose, install and operate their televisions.

2. In pleadings before the FCC, television receiver manufacturers have explained that the sale of television receivers is extremely competitive. To the consumer the most important characteristics of a television receiver in the showroom environment are the size of the picture tube, the cabinet quality, and the control panel appearance. It is difficult for consumers to recognize improvements to a receiver which do not affect the more obvious characteristics. If a manufacturer increases his cost by a few dollars to make technical improvements, she/he therefore runs the risk of reduced sales. Manufacturers say that this problem has deterred them from making several technical improvements to television receivers.

3. It is not unusual for Government agencies to make product information available to consumers. For example, the Department of Agriculture grades beef on taste and texture, and the Environmental Protection Agency rates cars on the basis of gas mileage. The Food and Drug Administration has occasionally required that some commercials and product packaging contain specific types of information. Consumers can also get information from industry trade organizations and from private testing groups.

4. The FCC believes that there are three reasons why television reception would improve if consumers had more information available to them.

A. Consumers could select television sets that best meet their needs. Consumers would be better able to consider how well a television receiver would perform in their homes if they had better information available to them. For example, consumers in weak signal areas could purchase receivers that had low noise figures. A receiver with a low noise figure would bring in weak signals better. The same consumers might not want to pay extra for increased picture resolution, which would only make picture "snow" more apparent. Similarly, they may wish to purchase an antenna system better suited to their area. Reception would be improved if consumers were able to select the most suitable receiver and antenna system for their areas.

B. There would be more incentive for manufacturers to improve their products. Informed consumers may be willing to pay a premium for an improved product. Relatively inferior equipment

could not be sold at as high a price. This should induce manufacturers to put more emphasis on antenna and receiver improvements. Manufacturers might also produce some lines of receivers and antenna systems designed specifically for particular operating conditions, such as weak signal areas.

C. Consumers may benefit from improved installation and operation of their equipment. Some consumers may lack the necessary information to install and operate their systems. It may be possible to improve reception by making more information on the installation and operations of television sets available to the consumer.

5. Three sets of questions are addressed in this inquiry. The first set concerns the types of information about systems and receivers that should be provided to consumers. There are specific questions on the means, costs, and benefits of providing this information. The second set of questions seeks to determine the types of information which would help consumers install and operate their TV systems. The third set of questions asks whether a system of noise figure labeling might be the logical first step in making more of this type of information available to the consumer. Of particular interest is how quickly such a program could be implemented.

6. Questions to be addressed in this inquiry:

Question 1.—If the consumer is to have more information on antenna systems, transmission lines (the wire connecting the antenna to the receiver), and receivers:

1-A. What characteristics of antennas, transmission lines and receivers should be covered?

1-B. How can this information be presented so that it would be most meaningful and useful to the average consumer?

1-C. To what degree would this information improve the consumers' ability to choose a system which best met their needs?

1-D. How should this information be made available to the consumer?

1-E. What would be the costs of providing this information to the consumer?

1-F. What would be the other impacts of making this information available?

Question 2.—Once the consumer has purchased equipment:

2-A. What information does the consumer need to install and operate the equipment (or to know that it is installed properly)? Is sufficient information provided by the retailer or enclosed with the equipment?

2-B. If consumers do not have sufficient information, how should additional information be made available to them?

Question 3.—Should the Commission require that television receivers have their maximum noise figures clearly indicated as a first step towards making more information available to the consumer? If so:

3-A. How should the noise figure and related information be presented to the public?

3-B. How quickly could this phase of a grading program be implemented?

3-C. What would be the costs, benefits, and impacts of implementing noise figure labeling as the initial phase of an equipment grading program?

INFORMATION ON COMMENTS

7. *Who should file comments?* We urge the viewing public, television equipment manufacturers, broadcasters, and all other interested parties to participate in this inquiry. You may participate by sending information and opinions that are relevant to the questions listed in this inquiry.

8. *How will this information be used?* The comments we receive will be used to evaluate the issues we have discussed above. Comments may result in FCC action to provide the consumer with more information about television equipment. For example, we might change the rules to require receiver grade or quality labeling for certification. The FCC will make rule changes only after all interested parties are given an adequate opportunity to comment.

9. *How comments should be prepared.* Your comments must clearly show this docket number "General Docket No. 78-307", at the top of the first page. Please label your responses so that it will be clear which numbered question is being answered. If your comments are general, and not related to a specific question, please state the issue being addressed.

10. *How many copies should be sent?* Section 1.419 of the rules requires that you file the original and five copies of your comments. If you want each Commissioner to receive a personal copy of your comments, you should include six additional copies. The FCC will fully consider all comments, even if only the original is filed.

11. *Where to send comments.* Send your comments to: Secretary, Federal Communications Commission, Washington, D.C. 20554.

12. *How to see the comments of other parties.* All comments will be available for public inspection in the FCC Dockets Reference Room, Room 239, 1919 M Street NW., Washington, D.C. The FCC is open weekdays between 8 a.m. and 5:30 p.m. You can reply to comments submitted by another party by following the same procedure as you do for commenting.

13. *Deadline for filing Comments.* Comments must be received by February 1, 1979. Replies to comments must be received by March 1, 1979.

14. *The source of our legal authority.* Sections 4(i), 302, 303(f), (g), (r), and (s), 330, and 403 of the Communications Act gives the FCC the authority

to conduct this inquiry. Accordingly, the FCC orders that this inquiry is instituted.

FEDERAL COMMUNICATIONS
COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-29915 Filed 10-23-78; 8:45 am]

[6712-01-M]

[47 CFR Part 73]

[Docket No. 20954; RM-2684; RM-2772;
RM-2982]

FM BROADCAST STATION IN STAUNTON, VA.

Order extending time for filing comments and
reply comments

AGENCY: Federal Communications
Commission.

ACTION: Order.

SUMMARY: Action taken herein extends the time for filing comments and reply comments in a proceeding involving the proposed assignment of a class B FM channel to Staunton, Va. Petitioner, James J. Freeman, states that the additional time is necessary so that a proper response can be made.

DATES: Comments must be filed on or before November 17, 1978, and reply comments on or before December 8, 1978.

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

FOR FURTHER INFORMATION
CONTACT:

Stanley P. Wiggins, Broadcast
Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: October 16, 1978.

Released: October 18, 1978.

In the matter of amendment of § 73.202(b), *Table of Assignments*, FM Broadcast Stations (Staunton, Va.), docket No. 20954, RM-2684, RM-2772, RM-2982.

1. On August 17, 1978, the Commission adopted a second further notice of proposed rulemaking, 43 FR 38060, proposing the assignment of class B FM channel 259 to Staunton, Va. The present dates for filing comments and reply comments are October 16, and November 6, 1978, respectively.

2. On October 6, 1978, counsel for

James J. Freeman, filed a request seeking a 30-day extension of time for filing comments and reply comments. Counsel asserts that the Commission indicated in the Notice that a primary objective was to obtain approval of the proposed assignment from the National Radio Astronomy Observatory ("NRAO") and the Naval Research Laboratory ("NRL"). Counsel states that a meeting was scheduled between WANV's engineering consultant and an Observatory representative but the meeting was cancelled at the request of the representative. Counsel advises that a subsequent meeting was held and the engineering consultants are furnishing certain data for NRAO/NRL review which would be available within 20 days, but this time frame would not permit WANV sufficient time to prepare a response.

3. We are of the view that the additional time is warranted in order to assure development of a sound and comprehensive record on which to base a decision in this proceeding. *Accordingly, it is ordered*, That the dates for filing comments and reply comments are extended to and including November 17, and December 8, 1978, respectively.

4. This action is taken pursuant to authority found in sections 4(i), 5(d)(1), and 303(r) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules.

FEDERAL COMMUNICATIONS
COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc. 78-29907 Filed 10-23-78; 8:45 am]

[6712-01-M]

[47 CFR Part 73]

[BC Docket No. 78-221; RM-3060]

FM BROADCAST STATION IN ATLANTA, MICH.

Order Extending Time for Filing Reply
Comments

AGENCY: Federal Communications
Commission.

ACTION: Order extending time.

SUMMARY: Action taken herein extends the time for filing reply comments in a proceeding concerning the proposed assignment of an FM channel to Atlanta, Mich. Petitioner, Wilderness Broadcasting, Inc., states the

additional time is needed to prepare reply comments.

DATE: Reply comments must be received on or before October 26, 1978.

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

FOR FURTHER INFORMATION
CONTACT:

Mildred B. Nesterak, Broadcast
Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: October 16, 1978.

Released: October 18, 1978.

In the matter of amendment of § 73.202(b), *Table of Assignments*, FM Broadcast Stations (Atlanta, Mich.), BC docket No. 78-221, RM-3060.

1. On July 17, 1978, the Commission adopted a notice of proposed rulemaking, 43 FR 32834, proposing to assign FM channel 223 to Atlanta, Mich. The date for filing comments has expired and the date for filing reply comments was October 5, 1978.

2. A request was filed by Wilderness Broadcasting, Inc. ("Wilderness"), proponent in this proceeding, seeking a 3-week extension of time for filing reply comments. Wilderness states that it had recently moved from one community to another and many of the materials needed to prepare the reply comments were delayed enroute.

3. Section 1.46 of the rules states that requests (extension) must be filed 7 days in advance but permits late-filed requests in case of last-minute emergencies which could not have been anticipated by the party requesting the extension. We believe that good cause has been shown in this instance, and that justification for an extension has been shown, so we are granting the request.

4. *Accordingly, it is ordered*, That the date for filing reply comments in BC docket No. 78-221 is extended to and including October 26, 1978.

5. This action is taken pursuant to authority found in sections 4(i), 5(d)(1), and 303(r) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules.

FEDERAL COMMUNICATIONS
COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc. 78-29908 Filed 10-23-78; 8:45 am]

notices

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.

[3410-02-M]

DEPARTMENT OF AGRICULTURE

Agriculture Marketing Service

**BARRETT LIVESTOCK MARKET, INC.,
WETUMPKA, ALA., ET AL.**

Posted Stockyards

Pursuant to the authority delegated under the Packers and Stockyards Act, 1921, as amended (7 U.S.C. et seq.), it was ascertained that the livestock markets named below were stockyards within the definition of that term contained in section 302 of the act, as amended (7 U.S.C. 202), and notice was given to the owners and to the public by posting notices at the stockyards as required by said section 302, on the respective dates specified below.

Facility number, name, and location of stockyard	Date of posting
Alabama:	
AL-162 Barrett Livestock Market, Inc., Wetumpka.....	June 27, 1978
Arizona:	
AZ-110 Sun Valley Livestock Auction Co., Sun Valley	Oct. 28, 1977
Colorado:	
CO-148 Valley Livestock Auction Co., Fruita	June 1, 1978
Mississippi:	
MS-157 Corinth Livestock Commission Co., Corinth.....	Oct. 10, 1978
New York:	
NY-157 Bast's Livestock Exchange, Watertown.....	Aug. 2, 1978
Virginia:	
VA-151 Abingdon Livestock Market, Inc., Abingdon.....	Aug. 10, 1978

Done at Washington, D.C., this 18th day of October 1978.

EDWARD L. THOMPSON,
Chief, Registrations, Bonds, and Reports Branch, Livestock Marketing Division.

[FR Doc. 78-29868 Filed 10-23-78; 8:45 am]

[3410-02-M]

[P&S Docket No. 5157]

ROBERTSDALE LIVESTOCK AUCTION, INC.

Petition for Modification of Rate Order

Pursuant to the provisions of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), an order was issued on August 30, 1978, authorizing the respondent, Robertsdale Livestock Auction, Inc., Roberts-

dale, Ala., to assess the following rates and charges effective November 3, 1978:

A. Regular selling-yardage charges:

Ordinary cattle:

Weighing less than 300 pounds, \$2.90 per head.

Weighing 300 pounds and over, \$4.00 per head.

Bulls: All bulls 700 pounds and over, \$7.50 per head.

Cows and calves sold as pairs, \$5.50 per pair.

Horses, ponies, and mules, \$6.00 per head.

Sheep and goats, \$1.00 per head.

Hogs:

Weighing less than 180 pounds, \$1.00 per head.

Weighing 180 pounds and over, \$1.35 per head.

Boars, Sows, and Stags, 270 pounds and over, \$2.00 per head.

Sows and Pigs, sold as a litter, \$2.50 per litter.

B. Resale and no-sale charges:

Definitions:

(1) Resale charges shall apply on all livestock resold without leaving the market premises.

(2) No-sale charges shall apply when a consignor declares his consignment no-sale on price bid, bids in his consignment, or withdraws the same prior to actual sale.

Charges: One-half of the regular selling and yardage charges shall be assessed on all resales and no-sales.

C. Feed: The charge for all feed sold shall be the average monthly cost f.o.b. the market plus \$0.005 per pound, \$0.50 cwt.

D. Veterinary services: The schedule of charges on all necessary veterinary services performed by an accredited veterinarian will be at posted uniform per head rates, pursuant to company agreement with the veterinarians performing such services and does not contain any charges retained by the market.

E. Special sales or services: Special sales or unusual stockyard services, such as are included in featured registered cattle and calf sales, annual 4-H sales, and sales for one consignor sold on other than regular sales days which require special services and handling will be charged for under special arrangements agreed to between the parties prior to the special sales.

By a petition filed October 11, 1978, the respondent requested authority to modify its rates and charges as follows:

Comes now the Respondent, Robertsdale Livestock Auction, Inc., in the above entitled cause and for its petition for modification states as follows:

I

Respondent is a livestock marketing business registered per and subject to the provisions of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. sections 201 et seq., later referenced as the Act) and related regulations found at 9 CFR Chapter II.

In April 1976, respondent was involved in a rate hearing which was initiated by a complaint filed in July 1975, and which was prosecuted by the Packers and Stockyards—AMS of the U.S. Department of Agriculture (formerly Packers and Stockyards Administration, later referred to as Agency).

On August 30, 1978, the Judicial Officer, acting on behalf of the Secretary of Agriculture, see 7 U.S.C. 450c-450g, issued a final order in this cause in which Respondent was given a prescribed schedule of rates and charges under which to operate, see Exhibit A attached to and made a part of this petition. The Judicial Officer's order was the result of an appeal from an initial Decision and Order in this cause, filed on March 23, 1978, by Administrative Law Judge Dorothea A. Baker.

II

With this petition Respondent seeks to have the schedule of rates and charges which have been recommended by the Agency and prescribed by the orders so far entered in this cause modified to permit Respondent to continue to utilize the schedule of rates and charges in its Tariff No. 3, which is now on file with the Agency.

III

In support of its petition for modification, Respondent states:

On October 2, 1978, the President of the United States of America signed into law Senate bill 3272, which amended the Packers and Stockyards Act, 1921, to provide that a market agency subject to the Act could utilize a value-based tariff such as Respondent's Tariff No. 3.

Respondent has been utilizing its present Tariff No. 3 for some three (3) years, e.g. since about September 1975. This schedule of rates and charges has been favorably accepted by Respondent's public, both buyers and sellers, during this period of time.

Wherefore Respondent respectfully requests that the rate orders previous-

ly entered in this cause be modified to permit Respondent to utilize a schedule of rates and charges as now found in its Tariff No. 3.

TARIFF NO. 3

Robertsdale Livestock Auction, Inc., is a business that constitutes a public livestock market where, in proper facilities, it renders complete and productive stockyard and marketing services to livestock owners in respect to their livestock as assembled for sale, and which it sells on the basis of competitive bids by auction.

ITEM NO. 1—DEFINITIONS, SERVICES

Section 1. Selling Commission: a. The selling commission consists of the charge made by the company for the selling services performed in respect to consigned livestock.

Sec. 2. Yardage: a. Includes suitable facilities and services for: Receiving and handling; safeguarding against loss, feeding, holding, weighing, delivery and shipment of livestock.

Sec. 3. Veterinary Livestock Inspection: a. Includes inspection services of accredited veterinarians under state and federal livestock sanitary regulations.

Sec. 4. Veterinary Services: a. Includes veterinary services necessary, or required by state or federal livestock sanitary regulations, which will be performed by accredited veterinarians.

Sec. 5. Feed:

a. All feeding at the market shall be done by the company or under its direction.

b. All feed charges are based on the quantity and type of feed fed.

ITEM NO. 11—CHARGE CLASSIFICATION

Section 1. Selling commission:

a. Cattle: \$2.75 per head plus 1 percent of the gross proceeds of sale.

b. Hogs: (1) Up to and including \$24.99, \$0.50 per head; (2) \$25.00 and over, 2 percent of the gross proceeds of sale.

c. Sheep and goats: (1) Sheep, \$0.50 per head; (2) Goats, \$0.50 per head.

d. Horses and mules: \$5.00 per head.

Sec. 2. Yardage:

a. Cattle: \$0.25 per head.

b. Hogs: \$0.10 per head.

c. Sheep and goats: \$0.10 per head.

d. Horses and mules: No charge.

Sec. 3. Veterinary inspection:

a. The schedule of charges on all necessary veterinary services performed by an accredited veterinarian for inspection will be at uniform per head rates.

Sec. 4. Veterinary services: a. The schedule of charges on all necessary veterinary services performed by an accredited veterinarian will be at posted uniform per head rates, pursuant to company agreement with the veterinarian performing such services and does not contain any charges retained by the market.

Sec. 5. Feed:

a. Hay: \$1.50 per bale.

b. Grain and other feeds: Actual cost.

Sec. 6. Special or unusual services: a. Special selling and marketing services, such as involved in featured registered cattle and calf sales, not usually required in handling livestock for sale and other than specified, will be charged for under special arrangement.

ITEM NO. 111—RESALES AND NO-SALES

Section 1. Definitions:

a. Resale charges shall apply on all livestock resold without leaving the company livestock market premises.

b. No sale charges shall apply when the consignor declares his consignment no-sale on price bid, bids in his consignment, or withdraws the same prior to actual sale.

Sec. 2. Charge classification.

a. No charges shall apply in respect to all resales.

b. The following charges shall apply in respect to no-sales: (1) Cattle, \$2.75 per head; (2) Hogs, sheep, and goats, \$0.50 per head; (3) Horses and mules, \$5.00 per head.

ITEM NO. IV—BUYING ON COMMISSION

Section 1. Definition: a. Consists of those services best applied to accomplish the purchase of livestock on a commission basis.

Sec. 2. Charge classification: a. There shall be no charge for this service.

ITEM NO. V—GENERAL PROVISIONS

Section 1. Code of Business Standards and Practices: a. The company subscribes to the Code of Business Standards and Practices of the Competitive Livestock Marketing Association, as adopted by such business trade association.

Sec. 2. Allocation of pens: a. All pens, chutes, and alleys are the property of the company and may not be claimed by any patron for his exclusive use. The management will assign pens and may change such assignment without advance notice.

Sec. 3. Title to livestock: a. Title to all animals consigned for sale remains in the consignor until the time sold. Time of sale shall be at the time the highest bid is accepted, unless the sale is conditional or unless proof of title in consignor fails.

The modification, if authorized, would produce additional revenue for the respondent and increase the cost of marketing livestock. Accordingly, it appears that this public notice of the filing of the petition and its contents should be given in order that all interested persons may have an opportunity to indicate a desire to be heard in the matter.

All interested persons who desire to be heard in this matter shall notify the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, before November 8, 1978.

Done at Washington, D.C., this 18th day of October, 1978.

CHAS B. JENNINGS,
Deputy Administrator,
Packers and Stockyards—AMS.

[FR Doc. 78-29869 Filed 10-23-78; 8:45 am]

[3410-05-M]

Office of the Secretary

ADVISORY COMMITTEE ON EXPORT SALES REPORTING

Meeting

In Accordance with the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of the following Committee meeting:

NAME: Advisory Committee on Export Sales Reporting.

DATE: November 8, 1978.

TIME: 9 a.m. to 4 p.m.

PLACE: Room 5066, South Building, U.S. Department of Agriculture, 1400 Independence Avenue, Washington, D.C. 20250.

TYPE OF MEETING: Open.

CONTACT PERSON: Dr. Kelly Harrison, General Sales Manager, USDA, Washington, D.C. 20250, telephone 202-447-5173.

SUMMARY MINUTES: May be obtained from the Office of the General Sales Manager, USDA, Washington, D.C. 20250.

PURPOSE: To review mandatory export sales reporting requirements and make recommendations to strengthen and improve the effectiveness of the monitoring system.

Dated: October 19, 1978.

FRED WELZ,
Acting General Sales Manager
and Executive Secretary, Advisory
Committee for Export
Sales Reporting.

FR Doc. 70-29969 Filed 10-23-78; 8:45 am]

[3410-15-M]

Rural Electrification Administration

ENVIRONMENTAL IMPACT STATEMENT

Intent To Prepare Supplement

Notice is hereby given that the Rural Electrification Administration (REA) intends to prepare a Supplement to a previous published Environmental Impact Statement (EIS) in accordance with section 102(2)(C) of the National Environmental Policy Act of 1969, in connection with a possible reclassification of guaranteed loan funds for Brazos Electric Power Cooperative, Inc. (Brazos), P.O. Box 6296, Waco, Tex. 76706.

In August 1976, REA issued a Final EIS related to the G&T Cooperative Project (San Miguel Project) Lignite Unit No. 1 and Associated Mine and Transmission Lines. One transmission

line contemplated in that EIS was a 345 kV, single-tower, double-circuit line which was anticipated to extend some 254 miles from the proposed San Miguel lignite-fired steam generating plant in Atascosa County, Tex., to the Lake Whitney area, northwest of Waco, Tex. On January 31, 1978, REA approved a loan guarantee commitment for constructing this line and associated terminal facilities, in the amount of \$49,560,000. In section 5.6.A, of REA's August 1976 Final EIS, it was noted that Brazos had " * * * initiated meetings with other Texas utilities toward the objective of arranging for interconnections so as to reduce the overall length of this 254 miles of 345 kV transmission line * * *" as an alternative to the proposed construction. It now appears that it may be possible for Brazos to utilize interconnections with two other Texas utilities to transport power and energy over part of the distance from the San Miguel plant to points in the existing Brazos transmission system. Establishment of such an arrangement would require that Brazos construct approximately 78 miles of 345 kV, single-tower, double-circuit transmission line from the San Miguel plant to the proposed Marion Substation of the Lower Colorado River Authority (LCRA), an agency of the State of Texas. Power and energy would be transferred from Marion Substation, located in Guadalupe County, Tex., over the LCRA and Texas Power & Light Co. (TP&L) transmission systems for delivery to Brazos at existing interconnection points. Various alternative routings for the transmission line from San Miguel to Marion are being evaluated at this time. Termination of the transmission line at Marion could reduce the total mileage originally contemplated in the Final EIS by some 176 miles (a 69-percent reduction), depending upon the route selected. Brazos would also be required to construct a 345 kV switching facility on or near the LCRA Marion Substation site.

Interested persons are invited to submit comments which may be helpful in preparing the Supplement to the Environmental Impact Statement. Comments should be forwarded to the Assistant Administrator—Electric, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250, with a copy of Brazos, whose mailing address is given above. Additional information may be obtained from Brazos at their offices, located at 2402 LaSalle Avenue, Waco, Tex., telephone 817-752-2501, during regular business hours.

Any reclassification of loan funds which may be made pursuant to the proposed change in previously approved facilities will be subject to, and

release of funds thereunder will be contingent upon, REA's reaching satisfactory conclusions with respect to environmental effects, and final action will be taken only after compliance with section 102(2)(C) of the National Environmental Policy Act of 1969, as well as the National Historic Preservation Act of 1966, Executive Order 11593, USDA Secretary's Memorandum No. 1827, Supplement 1, Executive Order 11988, Executive Order 11990, and the Endangered Species Act of 1973.

Dated at Washington, D.C., this 18th day of October 1978.

DAVID A. HAMIL,
Administrator, Rural
Electrification Administration.

[FR Doc. 78-29953 Filed 10-23-78; 8:45 am]

[3410-16-M]

Soil Conservation Service

ANDERSON RIVER, IND.

Authorization of Federal Assistance in the Installation of Works of Improvement

Federal assistance in the installation of works of improvement under the authority of the Watershed Protection and Flood Prevention Act (16 U.S.C. 1001-1108) has been authorized for the following watersheds:

Anderson River, Ind.
Boulder River, Mont.
Bush River, Va.
Cedar Run, Va.
Cypress Creek, Ala. and Tenn.
Goose Creek, Wash.
Great Creek, Va.
McKinney-Buzzard, Okla.
Pine River, Wis.
Short Creek, Ohio
Twenty-five Mile Stream, Maine.

Dated: October 17, 1978.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program—Pub. L. 83-566, (16 U.S.C. 1001-1008))

R. M. DAVIS,
Administrator,
Soil Conservation Service.

[FR Doc. 78-29900 Filed 10-23-78; 8:45 am]

[6820-32-M]

ARMS CONTROL AND DISARMAMENT AGENCY

GENERAL ADVISORY COMMITTEE

Meeting

Notice is hereby given in accordance with section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. I (the Act), and paragraph 8b of Office of Management and Budget Circular No. A-63 (Revised March 27, 1974) (the OMB Circular), that a meeting of

the General Advisory Committee (GAC) is scheduled to be held on November 8, 1978, from 9 a.m. to 6 p.m., on November 9, 1978, from 9 a.m. to 6 p.m., and on November 10, 1978, from 9 a.m. to 6 p.m. at 2201 C Street NW., Washington, D.C., in Room 7516.

The purpose of the meeting is for the GAC to receive briefings and hold discussions concerning arms control and related issues which will involve national security matters classified in accordance with Executive Order 11652 dated March 10, 1972.

The meeting will be closed to the public in accordance with the determination of October 3, 1978, made by the Director of the U.S. Arms Control and Disarmament Agency pursuant to section 10(d) of the Act and paragraph 8d(2) of the OMB Circular that the meeting will be concerned with matters of the type described in 5 U.S.C. 552(b)(1). This determination was made pursuant to a delegation of authority from the Office of Management and Budget dated June 25, 1973 issued under the authority of Executive Order 11769 dated February 21, 1974.

Dated: October 16, 1978.

SIDNEY D. ANDERSON,
Advisory Committee
Management Officer.

[FR Doc. 78-30166 Filed 10-23-78; 8:45 am]

[6320-01-M]

CIVIL AERONAUTICS BOARD

[Order 78-10-73]

DIRECTOR, BUREAU OF PRICING AND DOMESTIC AVIATION

Order Regarding Temporary Delegation of Authority

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on October 18, 1978.

S. 2493, the Airline Deregulation Act of 1978, will amend section 401 of the Federal Aviation Act to give the Board new powers over unused nonstop route authority. Along with this order we are issuing PR-180, to add a new subpart R to govern applications under new section 401(d)(5). This order delegates authority to the Director of the Bureau of Pricing and Domestic Aviation (BPDA) to exercise the Board functions set forth in that section. This delegation is necessary to handle expeditiously the volume of applications that may be filed as soon as the President signs the deregulation bill.

We plan to amend 14 CFR part 385, *Delegations and Review of Action Under Delegation; Nonhearing Matters*, in the near future, to codify the temporary delegation of authority to the Director of BPDA set forth in

order 78-4-147. We will then incorporate this temporary delegation in part 385.

By the terms of § 385.2, the general provisions of subpart A and the review provisions of subpart C of part 385 apply only to continuing delegations made by rule. Because of the breadth of this temporary delegation and the Board's need to retain a discretionary right of review, those provisions will also be applied to the delegations made by this order. As indicated in §§ 385.4 and 385.52, the Director of BPDA will have authority to provide that any of his actions taken under delegated authority shall not be stayed by the filing of a petition for review.

Accordingly:

1. Authority is delegated to the Director, Bureau of Pricing and Domestic Aviation to perform all functions of the Board set forth in section 401(d)(5) of the Federal Aviation Act, as amended; and

2. The exercise of this delegated authority shall be subject to the provisions of subparts A and C of part 385.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,¹
Secretary.

[FR Doc. 78-29872 Filed 10-19-78; 2:16 pm]

[6320-01-M]

PROCESSING OF APPLICATIONS FOR UNUSED AUTHORITY

The Airline Deregulation Act of 1978, as it is expected to be signed by the President, provides that certificates for route authority on the basis of present unused authority (new sec. 401(d)(5)) will be granted to the first applicants, after the bill is signed, who make the proper certifications. In order for the applications to be received and processed in a fair and orderly way, the following procedures will govern the Board's receiving and processing of applications presented immediately after the bill becomes law.

1. Applications will be received and recorded at the regular location in the Board's Docket Room, Room 714, 1825 Connecticut Avenue NW., Washington, D.C.

2. No applications will be accepted until the President signs the bill into law. Submission of an application before that time will have no effect (3 and 4 apply only if applicants begin to line up before 8:30 a.m. on the day the bill is scheduled to be signed).

3. The line-up point for persons carrying applications ("applicants") who wish to establish their place in line before 8:30 a.m. on the day the bill is signed shall be outside the front en-

trance of the Universal Building (1825 Connecticut Avenue) on Connecticut Avenue. Applicants will be responsible for maintaining an orderly queue on the sidewalk.

4. At 8:30 a.m. a Board employee will be stationed just inside the front entrance of the Universal Building to give out place numbers to applicants as they come in, in the order in which they have queued. As soon as all applicants who have queued have been given numbers, the place number station will be moved to the hall outside Room 714.

5. As soon as the Board staff receives notification that the bill has been signed, the Docket Section in Room 714 will start receiving applications. The Docket Section will take applications at a single designated point in the order of the lowest place numbers that are presented. (If, for example, after applicant No. 10 is processed, No. 11 is not immediately present, No. 12 will be taken next. If No. 11 then shows up, it will be taken before any others.)

5a. These procedures also apply to notices by incumbent carriers of their intent to reactivate service. Persons submitting such notices shall be in the same line as applicants for unused authority.

6. Applications submitted by means other than hand carrying will be received after all waiting applicants have been processed.

7. The Docket Section will make no judgments as to the completeness or validity of an application, but will record only the time and order in which documents are presented at the designated receiving point. The Board staff will, however, examine all applications for conformity with the statute and regulations and may reject nonconforming applications.

For further information contact: Barbara A. Clark, 202-673-5830, or Richard B. Dyson, 202-673-5444, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

Dated: October 18, 1978.

JOHN R. HANCOCK,
Acting Managing Director.

[FR Doc. 78-29865 Filed 10-19-78; 2:16 pm]

[63-2501-M]

CIVIL SERVICE COMMISSION DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Title Change in Noncareer Executive Assignment

By notice of June 14, 1977, FR Doc. 77-17079, the Civil Service Commission authorized the Department of Health, Education, and Welfare to fill by noncareer executive assignment in the excepted service the position of Associate Director for Policy, Plan-

ning, and Research, Office of the Associate Director for Policy, Planning, and Research, Office for Civil Rights, Office of the Secretary. This is notice that the title of this position is now being changed to Deputy Director for Standards, Policy, and Research, Office for Civil Rights, Office of the Secretary.

UNITED STATES CIVIL SERVICE COMMISSION.

JAMES C. SPRY,
*Executive Assistant to
the Commissioners.*

[FR Doc. 78-29846 Filed 10-23-78; 8:45 am]

[3510-11-M]

DEPARTMENT OF COMMERCE

Travel Service

TRAVEL ADVISORY BOARD

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. (App. 1976) notice is hereby given that the Travel Advisory Board of the U.S. Department of Commerce will meet on December 5, 1978, at 9 a.m., in the Capitol Room of the Hotel Washington, 15th Street and Pennsylvania Avenue NW., Washington, D.C. 20004.

Established in July 1968, the Travel Advisory Board consists of senior representatives of 15 U.S. travel industry segments who are appointed by the Secretary of Commerce.

Members advise the Secretary of Commerce and Assistant Secretary of Commerce for Tourism on policies and programs designed to accomplish the purpose of the International Travel Act of 1961, as amended, and the Act of July 19, 1940, as amended. A detailed agenda for the meeting will be published in the FEDERAL REGISTER in advance of the meeting.

A limited number of seats will be available to observers from the public and the press. The public will be permitted to file written statements with the Committee before or after the meeting. To the extent time is available the presentation of oral statements is allowed.

Sue Barbour, Travel Advisory Board Liaison Officer, the United States Travel Service, Room 1860, U.S. Department of Commerce, Washington, D.C. 20230, telephone 202-377-4752 will respond to public requests for information about the meeting.

FABIAN CHAVEZ, JR.,
Assistant Secretary for Tourism,
Department of Commerce.

[FR Doc. 78-29899 Filed 10-23-78; 8:45 am]

¹All members concurred.

[3125-01-M]

**COUNCIL ON ENVIRONMENTAL
QUALITY**

FREEDOM OF INFORMATION ACT

Revised Quarterly Index

AGENCY: Council on Environmental Quality.

ACTION: Notice.

SUMMARY: The Freedom of Information Act (5 U.S.C. 552), requires agencies to maintain and make available for public inspection and copying current indexes providing identifying information for the public as to any matter issued, adopted, or promulgated after July 4, 1967 and required to be made available or published (5 U.S.C. 552(a)(2)). The Act further requires quarterly publication of the indexes. An outline of CEQ's current index is printed in the latest Quarterly Index to the FEDERAL REGISTER.

EFFECTIVE DATE: September 30, 1978.

FOR FURTHER INFORMATION CONTACT:

Nicholas C. Yost, General Counsel, Council on Environmental Quality, 722 Jackson Place NW., Washington, D.C. 20008, 202-633-7032.

SUPPLEMENTARY INFORMATION:

NEW QUARTERLY INDEX STATEMENT

The Council has changed the format and content of its Quarterly Index. Beginning this quarter, the index will be divided into six parts:

Part I: CEQ Guidelines/Regulations.—Comprehensive guidance or rules by the Council on NEPA compliance (pursuant to E.O. 11514 or other applicable law).

Part II: Memoranda to heads of agencies.—Major statements of policy or interpretation, signed by Council members, on substantive or procedural environmental quality requirements; usually directive in nature (pursuant to E.O. 11514, Sec. 3(i) under which CEQ is ordered to issue instructions to agencies).

Part III: Other memoranda to agencies.—CEQ statements of policy or interpretation, usually on NEPA compliance, which may provide instructions or important information from CEQ officials to agency officials.

Part IV: Current policy positioning.—CEQ current policy statements or public positions on issues; these include speeches, testimony, position papers, articles correspondence, or other documents which express a general position by the Council on major issues.

Part V: Predecision referrals.—CEQ responses to referrals by agencies under NEPA and section 309 of the

Clean Air Act of environmentally unsatisfactory proposals, where CEQ has assisted in resolving these interagency disputes (pursuant to E.O. 11514, Sec. 3(h)).

Part VI: General information.—CEQ documents which provide or request important general information on environmental matters or which indicate the availability of CEQ publications or other items of public interest.

Those items which are listed in a previous Index, but which are not listed in a current index, should not be considered principal policies of the Council. Part IV, which lists the Council's current policy positions on important issues of the day, is intended to help the public locate materials which are usually on the public record already, such as speeches or testimony. The contents of this section should be viewed as selected major statements by the Council in areas of public concern. Part IV does not list every position the Council may hold, because the Council's principal purpose is to provide advice to the President. Because the Council does not adjudicate or otherwise regulate the conduct of private parties policies not listed would not be the kind of "unpublished law" that prompted the quarterly index requirement of the Freedom of Information Act.

Unless otherwise noted, the materials in the Index are available from the Public Affairs Office, Council on Environmental Quality, Executive Office of the President, 722 Jackson Place NW., Washington, D.C. 20006, 202-633-7005.

NICHOLAS C. YOST,
General Counsel.

[FR Doc. 78-29909 Filed 10-23-78; 8:45 am]

[3710-08-M]

DEPARTMENT OF DEFENSE

Department of the Army

**WINTER NAVIGATION BOARD ON GREAT
LAKES—ST. LAWRENCE SEAWAY**

Rescheduling of Open Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice was published in the FEDERAL REGISTER on October 10, 1978 (43 FR 46562) of a meeting of the Winter Navigation Board on October 26, 1978.

Notice is hereby given that the date and place of the meeting has been changed as stated below.

The meeting of the Winter Navigation Board will be held on November 17, 1978 at the Ramada Inn at 8270 Wickham Road in Ramulus, Mich., located just north of the I-94 expressway, across from the Detroit Metropolitan International Airport. The

meeting will be in session from 10 a.m. until 3:30 p.m., e.s.t.

The Winter Navigation Board is a multiagency organization which includes representatives of Federal agencies and non-Federal public and private interests. It was established to direct the Great Lakes-St. Lawrence Seaway navigation season extension demonstration investigations being conducted pursuant to Pub. L. 91-611, as amended by Pub. L. 93-251, and 94-587.

The primary purpose of the meeting is to discuss the 1979 demonstration activities and particularly the funding requirements and the St. Lawrence River activities. This includes the status of the environmental impact statement, water levels and flows reconciliation status report, status of permits application, and status of the development of the engineering/environmental/operational plan. Other items to be discussed include a summary of the fiscal year 1978 funding allocation and a status report on the draft feasibility report.

The meeting will be open to the public, subject to the following limitations:

a. As the seating capacity of the meeting room is limited, it is desired that advance notice of intent to attend be provided. This will assure adequate and appropriate arrangements for all attendants.

b. Written statements, to be made part of the minutes, may be submitted prior to, or up to 10 days following, the meeting, but oral participation by the public is limited because of the time schedule.

Inquiries may be addressed to Mr. David Weatheruser, U.S. Army Engineer District, Detroit, Corps of Engineers, P.O. Box 1027, Detroit, Mich. 48231, telephone 313-226-6770.

Dated: October 18, 1978.

By authority of the Secretary of the Army.

ROME D. SMYTH,
Colonel, U.S. Army, Director, Administrative Management,
TAGGEN.

[FR Doc. 78-29901 Filed 10-23-78; 8:45 am]

[3710-08-M]

PRIVACY ACT OF 1974

New System of Records

AGENCY: Department of the Army.

ACTION: Notification of a new system of records.

SUMMARY: The Department of the Army proposes a new system of rec-

ords identified as A0710.02DAJA, entitled: "JAGC Reserve Components Officer Personnel Records." The record system notice is published in its entirety below.

DATE: This system shall become effective as proposed without further notice on November 24, 1978, unless comments are received on or before November 24, 1978, which would result in a contrary determination requiring republication for further comments.

ADDRESS: Send comments to the system manager identified in the record system notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Guy B. Oldaker, Administrative Management Directorate, the Adjutant General Center, Department of the Army, Room GA-084, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C. 20314, telephone 202-693-0973.

SUPPLEMENTARY INFORMATION: The Department of the Army systems of records notices, as prescribed by the Privacy Act have been published in the FEDERAL REGISTER as follows:

FR Doc. 77-28255 (42 FR 50396), September 28, 1977.

FR Doc. 78-23952 (43 FR 38070), August 25, 1978.

FR Doc. 78-25562 (43 FR 40272), September 11, 1978.

FR Doc. 78-26373 (43 FR 42026), September 19, 1978.

FR Doc. 78-25879 (43 FR 42374), September 20, 1978.

FR Doc. 78-26699 (43 FR 43059), September 22, 1978.

FR Doc. 78-26996 (43 FR 43539), September 26, 1978.

The Department of the Army has submitted a new system report on September 20, 1978, pursuant to the provisions of the Privacy Act of 1974 (5 U.S.C. 552a(o)).

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

OCTOBER 18, 1978.

A0710.02DAJA

System name

JAGC Reserve Components Officer Personnel Records.

System location

Reserve Affairs Department, Room 232, the Judge Advocate General's School, U.S. Army (TJAGSA), Charlottesville, VA. 22901.

Computer Center, University of Virginia, Charlottesville, Va. 22901.

Categories of individuals covered by the system

All Judge Advocate General Corps (JAGC) U.S. Army Reserve and National Guard officers, not serving on extended active duty; and officers seeking appointment, branch transfer, or Federal recognition to the JAGC without concurrent call to active duty.

Categories of records in the system

Data bank includes individual officer's name, social security number (SSN), home and business addresses, home and business telephone numbers, grade, promotion eligibility date, primary military occupational specialty, date of birth, sex, basic date of mandatory removal, educational courses taken, unit assignment and unit address, employer, job title, specialty, and awards.

Personnel file contains such documents as application for appointment, active duty training, constructive credit, mobilization designee (MOB DES) position, and related matters dealing with educational courses completed; correspondence between Reserve Affairs Department personnel and the individual.

Authority for maintenance of the system

Title 10 U.S.C. 275(a) and regulations promulgated thereto.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses

Career Management: To schedule JAGC reserve officer training; select officers for reserve unit command positions; identify individual reservists in need of training; determine mandatory retirement dates; provide full background information on individuals applying for MOB DES positions, constructive credit by the Judge Advocate General for portions of a judge advocate course, and/or Active Duty for Training; to document background of applicants for appointment in the JAGC or branch transfer to JAGC consistent with prerequisites required for type of appointment/branch transfer and to establish eligibility for appointment/branch transfer.

Communications

To maintain current and complete address and telephone listings to insure that each officer can be quickly and reliably contacted.

Manpower management

To forecast field grade officer requirements and the number of officers required to fill positions vacated by officers transferred to the Retired Reserve; to provide aggregate statistical reports to other Department of the

Army elements for analysis of Total Force and mobilization readiness.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system

Storage

Paper records in file folders; automated records on magnetic tape.

Retrievability

Alphabetically by last name and SNN.

Safeguards

Records maintained in areas where authorized personnel work. During nonduty hours files and office doors are secured.

Computer records maintained in computer building in areas accessible only to authorized personnel; system entry by password.

Retention and disposal

Records are maintained until individual officer retires from Reserve Component. They are then placed in inactive file for 2 years after which they are destroyed.

System manager(s) and address

Director, Reserve Affairs Department, the Judge Advocate General's School, U.S. Army, Charlottesville, Va. 22901.

Notification procedure

Information may be obtained from: Director, Reserve Affairs Department, Charlottesville, Va. 22901.

Record assess procedures

Requests from individuals should be addressed to: Director, Reserve Affairs Department, the Judge Advocate General's School, U.S. Army, Charlottesville, Va. 22901.

Contesting record procedures

The Army's rules for access to records and for contesting contents and appealing initial determinations are contained in Army Regulations 340-21, (32 CFR Part 505).

Record source categories

Individual officer(s) concerned; official personnel documents.

Systems exempt from certain provisions of the act

None.

[FR Doc. 78-29982 Filed 10-23-78; 8:45 am]

[3128-01-M]

DEPARTMENT OF ENERGY

Office of Assistant Secretary for International Affairs

UNITED STATES OF AMERICA AND THE EUROPEAN ATOMIC ENERGY COMMUNITY

Proposed Subsequent Arrangement

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160), notice is hereby given of a proposed "subsequent arrangement" under the additional Agreement for Cooperation Between the Government of the United States of America and the European Atomic Energy Communities (Euratom) Concerning the Peaceful Uses of Atomic Energy.

The subsequent arrangement to be carried out under the above-mentioned agreement involves a loan agreement for the transfer of four micrograms each of Pu-242 and Pu-244 to be used in West Germany for research alpha transfer reactions on a number of targets using a beam of lithium-6 ions.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of the nuclear material will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than 15 days after the date of publication of this notice (November 8, 1978).

For the Department of Energy.

Dated: October 19, 1978.

HAROLD D. BENGLSDORF,
*Director for Nuclear Affairs,
International Programs.*

[FR Doc. 78-29885 Filed 10-23-78; 8:45 am]

[3128-01-M]

UNITED STATES OF AMERICA AND THE EUROPEAN ATOMIC ENERGY COMMUNITY

Proposed Subsequent Arrangement

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160), notice is hereby

given of a proposed "subsequent arrangement" under the additional Agreement for Cooperation Between the United States of America and the European Atomic Energy Community (Euratom) Concerning Peaceful Uses of Atomic Energy.

The subsequent arrangement to be carried out under the above-mentioned agreement involves the sale of 10 microcuries thorium-229 in the form of a nitrate powder or solution for use as a tracer in the analysis of thorium and uranium in natural samples for dating by alpha counting to give chemical and counting yield.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of the nuclear material will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than 15 days after the date of publication of this notice. (November 8, 1978)

For the Department of Energy.

Dated: October 19, 1978.

HAROLD D. BENGLSDORF,
*Director for Nuclear Affairs,
International Programs.*

[FR Doc. 78-29884 Filed 10-23-78; 8:45 am]

[3128-01-M]

UNITED STATES OF AMERICA AND THE EUROPEAN ATOMIC ENERGY COMMUNITY

Proposed Subsequent Arrangements

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangements" under the additional agreement for cooperation between the Government of the United States of America and the European Atomic Energy Community (Euratom) concerning the peaceful uses of atomic energy and the agreements for cooperation between the Government of United States of America and the Governments of Norway, Brazil, and Sweden for peaceful uses of atomic energy.

The subsequent arrangements to be carried out under the above mentioned agreements involve the following retransfers:

Retransfer No.	Countries	Description of material and purpose
1. RTD/EU(BR)-3	Brazil to West Germany	1.3666 Kg uranium (1.98 pct) for irradiation in the FRJ-2 Reactor, KFA-Julich.
2. RTD/NO(SW)-11	Sweden to Norway	8.0 Kg (0.72 to 3.50 pct) for analysis of the uranium content, isotopic composition and rare earth metals.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of the nuclear material

will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than 15 days

after the date of publication of this notice. (November 8, 1978.)

For the Department of Energy.

Dated: October 19, 1978.

HAROLD D. BENGLSDORF,
*Director for Nuclear Affairs,
International Programs.*

[FR Doc. 78-29886 Filed 10-23-78; 8:45 am]

[6560-01-M]

ENVIRONMENTAL PROTECTION AGENCY

TRUST TERRITORY OF THE PACIFIC ISLANDS AND THE NORTHERN MARIANA ISLANDS UNDER SECTION 106 OF PUB. L. 95-217

Determination of Fiscal Year 1979 Grant Amounts

On January 9, 1978, the Northern Mariana Islands (NMI) were accorded commonwealth status and became a political entity separate from the Trust Territory of the Pacific Islands (TTPI). Under the provisions of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America, the NMI are now eligible for "the full range of Federal programs and services available to the territories of the United States."

Since the TTPI was one of the political entities eligible for water quality management grants under section 106 of Pub. L. 95-217 on January 8, 1978, and since at that time the geographical area now encompassed by the NMI was part of the TTPI, it is necessary to divide the section 106 grant which formerly went to the TTPI between the NMI and the TTPI.

The total section 106 allocation for the geographical area within the NMI and TTPI is determined by the provisions of 40 CFR 35.553. Both these regulations and Pub. L. 95-217 (the Clean Water Act of 1977) specify that section 106 funds shall be divided among the States according to the extent of the pollution problem in each.

Accordingly, EPA has divided the former TTPI allocation as follows. First, the section 106 fiscal year 1979 grant for the TTPI and the NMI was computed by multiplying the former allocation ratio for the TTPI (see 40 CFR 35.553) by \$52,400,000, which is the total national section 106 appropriation for fiscal year 1979. From the resulting \$176,700, \$31,000 is provided

to the TTPI for the extraordinary administrative expenses resulting from the need to travel long distances to manage its water pollution control program.

The remaining \$145,700 is divided between NMI and TTPI according to the ratio of permits in each political entity. The number of permits was used as the best surrogate measure of pollution, because the standard statistical indicators listed in 40 CFR 35.552 are not available for the TTPI and the NMI.

The total number of permits in the two entities is 29, of which 19, or 65.5 percent, are in the TTPI, and 10, or 34.5 percent, are in the NMI. By multiplying these percentages times \$145,700, the \$145,700 is divided as follows: NMI—\$50,300 and TTPI—\$95,400. When the \$31,000 for extraordinary administrative expenses is added to TTPI's share, the total fiscal year 1979 grant amounts are as follows: NMI—\$50,300, and TTPI—\$126,400.

Public comments regarding this notice are welcome on or before December 26, 1978. Comments should be addressed to Ed Richards, Environmental Protection Agency, WH-554, 401 M Street SW., Washington, D.C. 20460, 202-755-7003.

THOMAS C. JORLING,
Assistant Administrator for
Water and Hazardous Materials.

[FR Doc. 78-29833 Filed 10-23-78; 8:45 am]

[6712-01-M]

FEDERAL COMMUNICATIONS COMMISSION

AM BROADCAST APPLICATION READY AND AVAILABLE FOR PROCESSING

Adopted: October 18, 1978.

Released: October 19, 1978.

Cut-off date: December 18, 1978.

Notice is hereby given that the AM broadcast application listed below will be considered as ready and available for processing on December 19, 1978. Since the listed application is timely filed and mutually exclusive with the earlier-filed and cut-off application of Westminster Broadcasting for renewal of license of AM Station KCMJ, Palm Springs, Calif. (file No. BP-1235), no other applications which involve conflict with these applications may be filed. Rather, the purpose of this Notice is to establish a date by which the parties to the forthcoming comparative hearing may compute the deadlines for filing amendments as a matter of right under § 1.522(a)(2) of the rules and pleadings to specify issues pursuant to § 1.584.

BP-21,042 new, Palm Springs, Calif., Whitmont Associates, Inc., Req: 1010 kHz, 500 W, 1 kW-LS, DA-2, U

FEDERAL COMMUNICATIONS
COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-29898 Filed 10-23-78; 8:45 am]

[6712-01-M]

GRANFALLOON DENVER-EDUCATIONAL BROADCASTING, INC., AND REGENTS OF THE UNIVERSITY OF COLORADO

[BC Docket Nos. 78-292, 78-293; File Nos.
BPED-1691, 1882]

Memorandum Opinion and Order Designating Applications for Consolidated Hearing on Stated Issues

Adopted: August 29, 1978.

Released: October 20, 1978.

In re applications of Granfalloon Denver-Educational Broadcasting, Inc., Denver, Colo., BC Docket No. 78-292, File No. BPED-1691, Req: 89.3 MHz, No. 207; 58.5 kW; 910 feet HAAT; the Regents of the University of Colorado, a Body Corporate, Boulder, Colo., BC Docket No. 78-293, File No. BPED-1882, Req: 89.3 MHz, No. 207; 3.89 kW, minus 723 feet HAAT; for construction permits.

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has before it the above-captioned applications of Granfalloon Denver-Educational Broadcasting, Inc. (Granfalloon), and the Regents of the University of Colorado, a Body Corporate (University) which are mutually exclusive and must be designated for comparative hearing.

2. A review of Granfalloon's application reveals several deficiencies with regard to our certification requirements which require the specification of an improper certification issue. We note that exhibit No. 2 of the Granfalloon application contains the corporate bylaws of the applicant as required by paragraph 3 of section II, FCC form 340. However, the bylaws have not been certified by an officer of the applicant, as required by paragraph 3(a) of section II, FCC form 340. More significantly, Gerald Greene, former executive director of Granfalloon, submitted an amendment to the application, dated April 25, 1974. The second page of the amendment is dated "April 24, 1974," but the accompanying balance sheet of Gerald Greene is dated April 27, 1974. Finally, V. Tobl Kanter, executive director of Granfalloon, submitted an amendment by transmittal letter dated July 17, 1976, which contains the certification page signed by Ms. Kanter and dated July 19, 1976. Section 1, page 2 of FCC form 340 requires that the cer-

tification portion of the application "not be dated and signed until all sections and exhibits have been prepared and attached." A similar requirement has been applied to amendments. *Badlands Broadcasting Co.*, 60 FCC 2d 353, 37 RR 2d 1719 (Rev. Bd. 1976). Accordingly, we are specifying an issue to permit Granfalloon to clarify the circumstances surrounding the preparation of its application and the April 25, 1974, and July 17, 1976, amendments.

3. In response to section II, paragraph 14(a) of the University's application, it is indicated that the execution of the application was duly authorized on April 1, 1974. However, the resolution of the University Regents, submitted as exhibit 2, is dated March 27, 1970. Although the Broadcast Bureau requested clarification of this apparent inconsistency, none was supplied. Accordingly, an issue will be specified to permit the University to clarify the date of authorization.

4. Analysis of University's application indicates that it will require \$29,945 to construct and operate its proposed station for 3 months. Based upon the original financial data included in its application, the University demonstrated the availability of \$39,680 to meet this requirement. By letter dated May 14, 1976, the staff requested the University to file an updated showing to reflect its current financial position, and make some provision for the legal fees which will be incurred in the comparative hearing. The University did not update its application as requested and, a financial issue will be specified.

5. The respective proposals, which are for different communities, would serve substantially different areas and populations. Consequently, it will be necessary to determine pursuant to section 307(b) of the Communications Act of 1934, as amended, which of the proposals would better provide a fair, efficient, and equitable distribution of radio service. Inasmuch as this proceeding involves competing applicants for noncommercial educational facilities, the standard areas and populations issue will be modified in accordance with the Commission's prior action in *New York University*, FCC 67-673 released June 8, 1967, 10 RR 2d 215 (1967). Thus, the evidence adduced under this issue will be limited to available noncommercial educational FM signals within the respective service areas.

6. Although Granfalloon has attempted to negotiate a share-time arrangement with the University on channel 207 (89.3 MHz), the University has not been amenable to such an agreement. Therefore, an issue will be specified to determine whether a share-time arrangement between the applicants would be the most effective

use of the frequency and thus better serve the public interest.¹ In the event that this issue is resolved in the affirmative, an issue will also be specified to determine the nature of such an arrangement. It should be noted that our action specifying a "share-time issue" is not intended to preclude the applicants, either before the commencement of the hearing or at any time during the course of the hearing, from participating in negotiations with a view toward establishing a share-time agreement between themselves.²

7. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, because the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding.

8. *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 whether the application of Granfalloon Denver-Educational Broadcasting, Inc., and the April 25, 1974, and July 17, 1976, amendments thereto, were properly certified and executed in accordance with Commission requirements, and the effect thereof, if any, on the applicant's basic qualifications to be a Commission licensee.

2. To determine, with respect to the application of the Regents of the University of Colorado, a Body Corporate the date of authorization of the execution of the University's application, and the effect thereof, if any, on the applicant's basic qualifications to be a Commission licensee.

3. To determine with respect to the application of the University:

(a) The applicant's estimated expenses for the hearing;

(b) In light of the foregoing issue, whether the applicant has accurately estimated its total costs for procuring its construction permit, building its station, and operating it for 3 months;

(c) Whether sufficient funds will be available to meet the applicant's total estimated costs; and

(d) Whether, in light of the evidence adduced pursuant to the foregoing

¹To some degree this issue represents a departure from the rules adopted by the Commission in the *Second Report and Order* in Docket No. 20735 which would not require a station operating 12 hours a day or more (as is the case here) to share time. However, time-sharing here is consistent with the objectives of the new rules and therefore deserves exploration in this proceeding.

²*Board of Education, Union School District No. 46, FCC 73-940, 38 FR 26763, released Sept. 18, 1973.*

issues, the applicant is financially qualified.

4. To determine the number of other reserved channel noncommercial educational FM services available in the proposed service area of each applicant, and the areas and populations served thereby.

5. To determine, in light of section 307(b) of the Communications Act of 1934, as amended, which of the proposals would better provide a fair, efficient, and equitable distribution of radio service, or, in the event this determination is not dispositive, whether a share-time arrangement between the applicants would result in the most effective use of channel 207 (89.3 MHz) and thus better serve the public interest, and, if so, the terms and conditions thereof.³

6. To determine in light of the evidence adduced pursuant to the foregoing issues whether either or both of the applications should be granted.

9. *It is further ordered.* That to avail themselves of the opportunity to be heard, the applicants herein, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, shall, within 20 days of the mailing of this order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this order.

10. *It is further ordered.* That the applicants herein shall, pursuant to section 311(a)(2) of the Communication's Act of 1934, as amended, and § 1.594 of the Commission's rules, give notice of hearing, either individually or, if feasible and consistent with the rules, jointly, within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

FEDERAL COMMUNICATIONS
COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc. 78-29896 Filed 10-23-78; 8:45 am]

[6712-01-M]

[BC Docket Nos. 78-337, etc., File Nos. BP-20, 621 etc.]

WEBSTER-BAKER BROADCASTING CO., ET AL

Memorandum Opinion and Order Designating
Applications for Consolidated Hearing on
Stated Issues

Adopted: October 10, 1978.

³In the past, sec. 307(b) has not been a relevant factor in the specification of a share-time issue. Here, however, not only are two widely separated communities involved but the applicants proposals differ greatly in terms of their efficiency. Accordingly, sec. 307(b) considerations may be relevant in the resolution of the share-time issue in this proceeding.

Released: October 19, 1978.

In re applications of Webster-Baker Broadcasting Co., Omaha, Nebr., BC Docket No. 78-337, File No. BP-20,621, Omaha Broadcasting Service Co., Omaha, Nebr., BC Docket No. 78-338, File No. BP-20,671, Nebraska-Iowa Broadcasting Corp., Omaha, Nebr., BC Docket No. 78-339, File No. BP-20,672, for construction permits for the facilities of former station KOIL, Omaha, Nebr. (1290 kHz, 5 Kw, DA-N U), KRCB, Inc., Council Bluffs, Iowa, BC Docket No. 78-340, File No. BP-20,677, Has; 1560 kHz, 1 kW, D, Req: 1290 KHz, 5 kW, DA-N, U; Webster-Baker Broadcasting Co., Omaha, Nebr., BC Docket No. 78-341, File No. BPH-10,193, Req: 96.1 MHz, Channel No. 241; 100 kW; 265 feet; Nebraska-Iowa Broadcasting Corp., Omaha, Nebr., BC Docket No. 78-342, File No. BPH-10,272, Req: 96.1 MHz, Channel No. 241; 100 kW; 210 feet; Nebraska Communications Corp., Omaha, Nebr., BC Docket No. 78-343, File No. BPH-10,313, Req: 96.1 MHz, Channel No. 241; 100 kW; 280 feet; KYLE Broadcasting Co., Inc., Omaha, Nebr., BC Docket No. 78-344, File No. BPH-10,317, Req: 96.1 MHz, Channel No. 241; 100 kW; 285 feet, Omaha Broadcasting Service Co., Omaha, Nebr., BC Docket No. 78-345, File No. BPH-10,318, Req: 96.1 MHz, Channel No. 241; 100 kW; 275 feet, for construction permits for the facilities of former station KEFM, Omaha, Nebr.

1. The Commission, by the Chief, Broadcast Bureau, has before it for consideration the mutually exclusive applications of Webster-Baker Broadcasting Co. (Webster), Omaha Broadcasting Service Co. (OBSC), Nebraska-Iowa Broadcasting Corp. (NIBC), and KRCB, Inc. (KRCB)¹ for the former facilities of standard broadcast station KOIL, Omaha, Nebr. Also before the Commission are the mutually exclusive applications of Webster-Baker Broadcasting Co. (Webster), Nebraska-Iowa Broadcasting Corp. (NIBC), Nebraska Communications Corp. (NCC), KYLE Broadcasting Co., Inc. (KYLE), and Omaha Broadcasting Service, Co. (OBSC) for the former facilities of FM broadcast station KEFM, Omaha, Nebr.²

2. To meet expenses of approximately \$364,810³ KYLE relies upon \$11,000 in existing capital, a \$325,000 loan from Allied Capital Corp., and \$44,000

¹The application of KRCB, Inc. requests a major change for KRCB, Council Bluffs, Iowa, to specify the former KOIL frequency.

²These applications are subject to former § 1.229 of the Commission's rules, which allowed the filing of petitions to enlarge, modify, or delete issues during the 15-day period following designation of the applications for hearing.

³The estimated cost of construction and 3 months of operation is as follows:

in stock subscriptions. However, since the applicant has not complied with one of the conditions for the loan—to invest \$55,000 in equity in the corporation—we must conclude that the loan is unavailable to it. Likewise, as KYLE has failed to submit subscription agreements reflecting the sale of \$44,000 worth of its capital stock, we cannot credit it with funds from that source. Consequently, only \$11,000 has been shown available to meet a \$364,810 requirement and a limited financial issue will be specified.

Equipment	\$225,000
Pre-operating expenses.....	30,000
Operating	97,135
Interest on loan.....	12,675
Total.....	364,810

3. Data submitted by the FM applicants indicate that there would be a significant difference in the size of the areas and population which would receive service from the proposals. Consequently, for the purposes of comparison, the areas and populations which would receive FM service of 1 mV/m or greater intensity, together with the availability of other primary aural services in such areas will be considered under the comparative issue, for the purpose of determining whether a comparative preference should accrue to any of the applicants.

4. Although the KRCB proposal is for Council Bluffs, Iowa, and the other AM broadcast applicants seek Omaha, Nebr., as their community of license, the facilities of all of these proposals would serve substantially the same areas. Consequently, in addition to determining, pursuant to section 307(b) of the Communications Act of 1934, as amended, which of the AM proposals would best provide a fair, efficient and equitable distribution of radio service, a contingent comparative issue will also be specified.

5. Except as indicated below, the applicants are qualified to construct and operate as proposed. However, because the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below. *Accordingly, it is ordered*, That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine with respect to KYLE Broadcasting Co., Inc.: (a) The source and availability of additional funds over and above the \$11,000 indicated; and, (b) whether, in light of the evidence adduced pursuant to (a) above, the applicant is financially qualified.

2. To determine the areas and populations which would receive primary

aural service from the AM proposals and the availability of other primary service to such areas and populations.

3. To determine, in light of section 307(b) of the Communications Act of 1934, as amended, which of the AM broadcast proposals would best provide a fair, efficient, and equitable distribution of radio service.

4. To determine, in the event it is concluded that a choice among the AM broadcast applications should not be based solely on considerations relating to section 307(b), which of the applications, on a comparative basis, would best serve the public interest.

5. To determine which of the FM proposals would, on a comparative basis, best serve the public interest.

6. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications for a construction permit should be granted.

6. *It is further ordered*, That to avail themselves of the opportunity to be heard the applicants herein, pursuant to § 1.221(c) of the Commission's rules, in person, or by attorney, shall, within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for hearing and to present evidence on the issues specified in this Order.

7. *It is further ordered*, That, the applicants herein, shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, give notice of the hearing, either individually or, if feasible and consistent with the rules, jointly, within the time and in the manner prescribed in such rule and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

FEDERAL COMMUNICATIONS
COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc. 78-29897 Filed 10-23-78; 8:45 am]

[6730-01-M]

FEDERAL MARITIME COMMISSION
AGREEMENTS FILED

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements and the justifications offered therefor at the Washington Office of the Federal Maritime Commission, 1100 L Street NW., Room 10218; or may inspect the agreements at the

field offices located at New York, N.Y.; New Orleans, La; San Francisco, Calif.; Chicago, Ill.; and San Juan, P.R. Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before November 13, 1978, in which this notice appears. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

Agreements Nos.: T-3709, T-3709-A, T-3709-A-1.

Filing Party: E. F. Brimo, Treasurer, Global Terminal & Container Services, Inc., P.O. Box 273, Jersey City, N.J. 07303.

Summary: Agreement No. T-3709, between Global Terminal & Container Services, Inc. (Global) and Orient Overseas Container Line, Inc. (OOCL) provides for a 5-year container terminal stevedoring and LCL cargo handling services agreement between the parties. Global will furnish the necessary equipment, labor, and facilities for the performance of certain container freight station services for OOCL in connection with containers to be loaded onto or discharged from vessels owned, operated, chartered or controlled by OOCL in the trade between the Far East and the Port of New York. OOCL agrees to utilize Global exclusively for such services at the Port of New York. As compensation, OOCL shall pay Global at rates in accordance with schedules attached to the agreement. In addition, Global will collect demurrage and loading and unloading charges according to the rates and conditions specified in Global's Terminal Tariff No. 1, as amended from time to time. Agreement No. T-3709-A, between the same parties, is an agency collection agreement whereby OOCL appoints Global as its agent for the assessment, billing, collection and administration of free time and demurrage on cargoes originating in the Far East and discharged from OOCL vessels at Global's facilities at New York. Agreement No. T-3709-A-1, between the same parties, is an amendment to the agency collection agreement whereby OOCL also appoints Global as its collection agent for cargoes carried by OOCL pursuant to its Thailand-U.S. Atlantic & Gulf Ports Freight Tariff No. 50.

Agreements Nos.: T-3712, T3712-1 and T-3712-A.

Filing Party: E. F. Brimo, Treasurer, Global Terminal & Container Services, Inc., P.O. Box 273, Jersey City, N.J. 07303.

Summary: Agreement No. T-3712, between Global Terminal & Container Services, Inc., (Global) and Italian Line (IL), is

a Terminal Stevedore and LCL Service Agreement whereby Global agrees to provide and perform, at its terminal facility in the Port of New York, container terminal stevedoring and LCL cargo handling services, for containers and Ro/Ro cargo, to be loaded onto or discharged from full cellular container vessels and combination Ro/Ro/Container vessels, owned, operated, chartered or controlled by IL in IL's service between the Mediterranean and the Port of New York. IL agrees to utilize exclusively, Global's terminal services and facilities at the Port of New York. IL shall compensate Global at rates listed in the agreement, said rates being based on the rates of pay and working conditions in the Labor Agreements with the ILA in existence on October 1, 1977, subject to further modifications. Global shall bill and collect charges for its services according to rates set in its Terminal Tariff No. 1, filed with the Commission. Agreement No. T-3712-1, between the same parties, modifies the basic agreement by changing the term of the agreement to commence December 4, 1977, and end May 31, 1979, with the agreement remaining in force thereafter until terminated by 90 days prior written notice given by either party to the other in writing. In addition, section II, subparagraph (5) is changed to reflect 500 empty containers rather than 400 empty containers. Agreement No. T-3712-A, between the same parties, is an Agency Collection Agreement whereby IL appoints Global as its agent for the assessment, billing, collection and administration of free time and demurrage on cargo and containers discharged from its vessels at Global's terminal facilities at the Port of New York. Global shall bill, collect and retain demurrage charges in accordance with the Rules and Regulations of the W.I.N.A.C. Freight Conference, Iberian/U.S. North Atlantic Westbound Freight Conference, and the Marseilles North Atlantic U.S.A. Freight Conference. In the event of noncollection from consignees or brokers, Global shall have no recourse against IL.

Agreement No.: T-3715.

Filing Party: E. F. Brimo, Treasurer, Global Terminal & Container Services, Inc., P.O. Box 273, Jersey City, N.J. 07303.

Summary: Agreement No. T-3715, between Global Terminal & Container Services, Inc., (Global) and D.D.G. "Hansa" (Hansa), is a Terminal, Stevedore and LCL Service Agreement whereby Global agrees to provide and perform, at its terminal facility in the Port of New York, stevedoring, LCL cargo handling, and terminal services for containers, trailers, and self-propelled vehicles, to be loaded onto or discharged from combination roll-on/roll-off container vessels owned, operated, chartered or controlled by Hansa in the trade between the Middle East and the Port of New York. Hansa agrees to utilize exclusively, Global's terminal services and facilities at the Port of New York. Hansa shall compensate Global at rates listed in the agreement, said rates being based on the rates of pay and working conditions contained in the Labor Agreements with the ILA in existence on May 1, 1977, subject to further modifications. Global shall bill and collect charges for its services according to rates set in its Terminal Tariff No. 1, filed with the Commission.

Agreement No.: T-3716.

Filing Party: E. F. Brimo, Treasurer, Global Terminal & Container Services, Inc., P.O. Box 273, Jersey City, N.J. 07303.

Summary: Agreement No. T-3716, between Global Terminal & Container Services, Inc., (Global) and Korea Shipping Corp. (KSC) provides for a container terminal and LCL cargo handling service agreement between the parties. Global will furnish the necessary equipment and labor for the performance of certain services for KSC in connection with the operation of a container freight station. Global will also prepare various documents associated with the above services. KSC agrees to utilize Global exclusively for such services at the Port of New York. As compensation, KSC shall pay Global at rates in accordance with schedules attached to the agreement. In addition, Global will collect demurrage and loading and unloading charges according to the rates and conditions specified in Global's Terminal Tariff No. 1, as amended from time to time.

Agreement No.: 8080-16.

Filing Party: Mr. Wade S. Hooker, Jr., Burlingham Underwood & Lord, One Battery Park Plaza, New York, N.Y. 10004.

Summary: Agreement No. 8080-16, entered into among the member lines of the Atlantic and Gulf-Indonesia Conference, amends Article 8 of the basic agreement to read as follows (with insertions indicated by underlining):

"8. There shall be no absorption of wharfage, storage or other charges against the cargo and no absorption at loading or discharge ports of rail, truck or water freights, except as authorized by the Conference."

Agreement No.: 9615-27.

Filing Party: Stanley O. Sher, Esq., Billig, Sher & Jones, P.C., Suite 300, 2033 K Street NW., Washington, D.C. 20006.

Summary: Agreement No. 9615-27, among the member lines of the Iberian/U.S. North Atlantic Westbound Freight Conference, modifies the basic agreement by amending Article 12.5 to provide for vote by proxy at conference meetings.

Agreement No.: 9976-4.

Filing Party: John R. Attanasio, Esq., Billig, Sher & Jones, P.C., Suite 300, 2033 K Street NW., Washington, D.C. 20006.

Summary: Agreement No. 9976-4, among the member conferences of the Mediterranean Associated Conferences Agreement, modifies the basic agreement by amending paragraph (a) of Article 4 to provide, essentially, that meetings of Executive Committee representatives of two or more of the Associated Conferences may be held under the auspices of the Agreement, and paragraph (b) of Article 4 to provide, again essentially, that meetings of such Executive Committee representatives shall be called upon not less than 2 weeks' prior notice to each Conference.

By order of the Federal Maritime Commission.

Dated: October 18, 1978.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 78-29850 Filed 10-23-78; 8:45 am]

[6730-01-M]

PETITIONS FILED

The Federal Maritime Commission hereby gives notice that the following petitions have been filed with the Commission for approval pursuant to section 14b of the Shipping Act, 1916, as amended (75 Stat. 762, 46 U.S.C. 813a).

Interested parties may inspect and obtain a copy of the petitions and the justifications offered therefor at the Washington Office of the Federal Maritime Commission, 1100 L Street NW., room 10218; or may inspect the petitions at the field offices located at New York, N.Y., New Orleans, La., San Francisco, Calif., Chicago, Ill., and San Juan, P.R. Interested parties may submit comments on the petitions, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before November 13, 1978. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed petitions. Comments shall discuss with particularity allegations that the petition is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the act.

A copy of any comments should also be forwarded to the party filing the petitions and the statement should indicate that this has been done.

Agreement No. 2846 DR-7.

Filing party: David C. Jordan, Esq., Billig, Sher & Jones, P.C., Suite 300, 2033 K Street NW., Washington, D.C. 20006.

Summary: Agreement No. 2846 DR-7 would amend the Merchant's Contract of the West Coast of Italy, Sicilian & Adriatic Ports North Atlantic Range Conference (WINAC) to provide that (1) whenever a shipment is made by a merchant who regularly operates as a freight forwarder, the shipment shall be deemed to be made in the interest of an underlying company; (2) such merchant shall be bound to disclose the name of said company since it is understood that the contract will only apply if said company is a contract signatory; (3) the merchant shall be charged the contract rate only if he has the legal right at the time of shipment to select the carrier; (4) either the shipper or consignee, whoever pays the freight charges, shall have the legal right at the time of shipment to select the carrier; and (5) the merchant shall have the right to select the carrier if he pays the freight charges.

By order of the Federal Maritime Commission.

Dated: October 18, 1978.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 78-29853 Filed 10-23-78; 8:45 am]

[6730-01-M]

[Docket No. 78-40]

**SALEN SHIPPING AGENCIES, INC. v. PACIFIC
MARITIME ASSOCIATION**

Filing of Complaint

Notice is hereby given that a complaint filed by Salen Shipping Agencies, Inc. against the Pacific Maritime Association (PMA) was served October 17, 1978. The complaint alleges that certain actions taken by PMA pursuant to collective bargaining arrangements between PMA and the International Longshoreman's & Warehouseman's Union have resulted in violations of sections 15, 16, and 17 of the Shipping Act, 1916.

Hearing in this matter, if any is held, shall commence on or before April 17, 1979. The Hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon a proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matters in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 78-29851 Filed 10-23-78; 8:45 am]

[6730-01-M]

[Docket No. 78-39]

**STANDARD FRUIT AND STEAMSHIP CO., INC.
AND UNITED BRANDS, INC. v. PACIFIC
MARINE ASSOCIATION**

Filing of Complaint

Notice is hereby given that a complaint filed by Standard Fruit and Steamship Co., Inc. and United Brands, Inc. against the Pacific Maritime Association (PMA) was served October 17, 1978. The complaint alleges that certain actions taken by PMA pursuant to collective bargaining arrangements between PMA and the International Longshoreman's & Warehouseman's Union have resulted in violations of sections 15, 16, and 17 of the Shipping Act, 1916.

Hearing in this matter, if any is held, shall commence on or before April 17, 1979. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon a proper showing

that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matters in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 78-29852 Filed 10-23-78; 8:45 am]

[6820-23-M]

**GENERAL SERVICES
ADMINISTRATION**

[Temporary Regulation D-62]

Secretary of Transportation

SUBJECT: Delegation of authority.

1. *Purpose.* This regulation continues in effect the authority delegated to the Secretary of Transportation to perform all functions in connection with leasing of certain space at the Department's Federal Aviation Administration, National Aviation Facilities Experimental Center (NAFEC).

2. *Effective date.* This regulation is effective immediately.

3. *Expiration date.* This regulation shall expire upon termination of the lease.

4. *Background.* This regulation reflects the delegation of authority which was granted by letter of October 28, 1976, to the Secretary of Transportation by the Administrator of General Services.

5. *Delegation.* a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949 (63 Stat. 377), as amended, authority is hereby delegated to the Secretary of Transportation to perform all functions in connection with the leasing of approximately 500,000 gross square feet of space at the Federal Aviation Administration, National Aviation Facilities Experimental Center, Atlantic County, N.J.

b. This authority shall extend to leasing space under authority in section 210(h)(1) of the above-cited act (40 U.S.C. 490(h)(1)) for a firm term of 20 years with renewal options for firm term periods not to exceed 20 years as deemed appropriate by the Secretary of Transportation.

c. The Secretary of Transportation may redelegate this authority to any official or employee of the Department of Transportation.

d. This authority shall be exercised in accordance with the applicable limitations and requirements of the above-cited act, section 322 of the Act of June 30, 1932 (40 U.S.C. 278a), as amended, other applicable statutes and regulations, and policies, proce-

dures, and controls prescribed by General Services Administration.

6. *Effect on other issuances.* This temporary regulation cancels the letter dated October 28, 1976, from the Administrator of General Services to the Secretary of Transportation, related to the above delegation.

September 29, 1978.

JAY SOLOMON,
Administrator of General
Services

[FR Doc. 78-29857 Filed 10-23-78; 8:45 am]

[4110-03-M]

**DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE**

Food and Drug Administration

[Docket No. 78N-0280; DESI Nos. 740, 1543,
and 7661]

**ESTROGENS FOR POSTPARTUM BREAST
ENGORGEMENT**

**Opportunity for Hearing on Proposal To With-
draw Approval of New Drug Applications
for Certain Estrogen-Containing Drugs**

AGENCY: Food and Drug Administration (FDA).

ACTION: Notice.

SUMMARY: This notice proposes to withdraw approval of new drug applications for estrogen-containing drugs that are labeled for use in postpartum breast engorgement. The basis for the action is that estrogens are not shown to be safe for that use.

DATE: Hearing requests due on or before November 24, 1978.

ADDRESSES: Communications forwarded in response to this notice should be identified with the Docket number 78N-0280, directed to the attention of the appropriate office named below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20857.

Requests for hearing: Hearing Clerk, Food and Drug Administration (HFA-305), Room 4-65.

Requests for opinion of the applicability of this notice to a specific product: Division of Drug Labeling Compliance (HFD-310), Bureau of Drugs.

Supplements to approved new drug applications (identify with NDA number): Division of Metabolism and Endocrine Drug Products (HFD-130), Room 14B-04, Bureau of Drugs.

Other communications regarding this notice: Drug Efficacy Study Implementation Project Manager (HFD-501), Bureau of Drugs.

**FOR FURTHER INFORMATION
CONTACT:**

Ronald L. Wilson, Bureau of Drugs
(HFD-32), Food and Drug Adminis-

tration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3650.

SUPPLEMENTARY INFORMATION:

For many years estrogens, in both injectable and oral form, have been used to suppress lactation in the nonnursing mother. The objective of the therapy was "to dry up the milk," thereby preventing postpartum breast discomfort.

In recent years the benefit/risk ratio for the use of estrogens for this indication has become a concern of FDA. Due to the lack of well-controlled objective and subjective evaluation of patients' symptoms in postpartum days 4 through 14, the new drug application for quineestrol for use in the suppression of postpartum lactation was rejected on June 17, 1971. On November 24, 1971, FDA representatives and the sponsor of quineestrol developed a protocol which provided for very close surveillance of patients during this period, giving particular attention to evidence of rebound breast engorgement and pain following initial use of their drug and the comparison drug chlorotrianisene. After examining data from the studies at their meeting of July 15-16, 1976, the FDA Obstetrics and Gynecology Advisory Committee recommended that the physician labeling include a statement concerning the increased risk of puerperal thromboembolism in the use of estrogens for this indication. Because of the Committee's findings, FDA undertook an extensive review of information about estrogens. On the basis of the review of available information on these drugs and the recommendations of the advisory committee, FDA published revised physician labeling in the FEDERAL REGISTER of September 29, 1976 (41 FR 43117), as a guide for manufacturers and distributors of estrogenic drug products for general use. The notice stated that the need for revised physician labeling arose principally from reports which associate an increased risk of adverse effects with the use of estrogens. It announced that the following statement is required in the Indications section of the physician labeling:

Although estrogens have been widely used for the prevention of postpartum breast engorgement, controlled studies have demonstrated that the incidence of significant painful engorgement in patients not receiving such hormonal therapy is low and usually responsive to appropriate analgesic or other supportive therapy. Consequently, the benefit to be derived from estrogen therapy for this indication must be carefully weighed against the potential increased risk of puerperal thromboembolism associated with the use of large doses of estrogens.

A final regulation to require patient labeling for all prescription estrogenic drug products for general use was published in the FEDERAL REGISTER of July 22, 1977 (42 FR 37636). The regulation (21 CFR 310.515), specifies the kind of information to be contained in the patient labeling and how it is to be made available to the patient. It requires that the labeling contain a statement regarding the proper use of estrogens in the prevention of breast engorgement, and their limited usefulness for this purpose. A notice also published in the FEDERAL REGISTER of July 22, 1977 (42 FR 37645), revised the guideline text for patient labeling for prescription estrogenic drug products. The notice stated that the following text can be relied upon as meeting the requirements of 21 CFR 310.515(b)(3) regarding breast engorgement.

ESTROGEN TO PREVENT SWELLING OF THE BREASTS AFTER PREGNANCY

If you do not breast feed your baby after delivery, your breasts may fill up with milk and become painful and engorged. This usually begins about 3 to 4 days after delivery and may last for a few days to a week or more. Sometimes the discomfort is severe, but usually it is not and can be controlled by pain-relieving drugs such as aspirin and by binding the breast up tightly. Estrogens can be used to try to prevent the breasts from filling up. While this treatment is sometimes successful, in many cases the breasts fill up to some degree in spite of treatment. The dose of estrogens needed to prevent pain and swelling of the breasts is much larger than the dose needed to treat symptoms of the menopause and this may increase your chances of developing blood clots in the legs or lungs. Therefore, it is important that you discuss the benefits and the risks of estrogen use with your doctor if you have decided not to breast feed your baby.

These labeling statements reflected the increasing concern of FDA about the risk in using estrogens for postpartum breast engorgement when other therapy with less risk is available to the patient. This concern was also reflected in the required labeling statement concerning the limited effectiveness of estrogens for this indication.

On January 31, 1978, the subject of estrogen use for prevention of breast engorgement and lactation suppression was again considered by the FDA Obstetrics and Gynecology Advisory Committee. A literature review of estrogen use for lactation suppression and its adverse consequences was given by Dr. Jennifer Niebyl of the Johns Hopkins School of Medicine. With regard to effectiveness, the review indicated that the drugs do no more than suppress, or delay, breast engorgement and milk flow in the immediate postpartum period. When patients are evaluated over a more extended period of time, 10 days to 3 weeks, very little difference of any significance is seen in the incidence of com-

plete control of symptoms or rebound breast engorgement and lactation in either treated or untreated groups. Dr. Niebyl felt that the initial effect of the drug, which is most prominently demonstrated at the time of the patient's hospitalization, has perpetuated the feeling among physicians that estrogens used for these indications are indeed effective without them critically considering the number of patients who report a resurgence of milk flow and painful breasts a week or 10 days after discharge. This hypothesis is supported by the fact that no data are available that demonstrate a substantial lasting effect of estrogens when used for this purpose.

In addition to demonstrating the limited effectiveness of the drug, the literature also indicated that significant risks are involved in the use of these drugs for prevention of postpartum breast engorgement. Studies conducted by Daniel, Jeffcoate, Tindall, and others demonstrate that risks are imposed by the use of estrogens in nonnursing mothers. Daniel, for example, reported a tenfold increase in low-parity women aged 25 and older in the incidence of thromboembolism. In his studies, diethylstilbestrol was the estrogen used. Jeffcoate, et al. subsequently showed that lactation inhibition with use of ethinyl estradiol was associated with a threefold increase in thromboembolic disease, although the effect was seen mainly in women of 25 and older; in women aged 35 or more who had assisted deliveries, there was a tenfold increase. Tindall reported similar findings. In women less than 25 years old he found little difference in the incidence of thromboembolism between lactating and nonlactating (estrogen treated) groups, but this incidence increased threefold beyond age 25 and a startling 9.6/1000 or sixfold in women aged 35 and older. More striking were his findings that even in women under 25 the incidence was increased threefold if there had been an assisted delivery and lactation was inhibited. After age 25, he reported that thromboembolic disease is doubled if the delivery is assisted even if the patient is nursing, but if lactation is inhibited the risk is increased 3 times if normal delivery occurred and is increased 6 times, possibly 12 times, if the delivery is assisted. There seems to be no question that these risks would be appreciably greater following Cesarean section. On the basis of the literature review presented at the Obstetrics and Gynecology Advisory Committee meeting of January 31, 1978, the Committee concluded that available evidence does not support the safety and effectiveness of estrogens for the treatment of postpartum breast engorgement. The Committee recommended that the indication for

postpartum breast engorgement be removed from the labeling of estrogenic products.

REFERENCES

1. Kaulla, E., et al., "Effect of Estrogens on Postpartum Hypercoagulability and Antithrombin III Activity," *American Journal of Obstetrics and Gynecology*, 113:920-926, 1972.
2. David, A., et al., "Stilbestrol Administration in the Puerperium and Its Effect on the Prolactin Excretion of Non-Lactating Patients," *Acta Obstetrica et Gynecologica Scandinavica*, 56:211-215, 1977.
3. Tindall, V. R., "Factors Influencing Puerperal Thrombo-Embolicism," *Journal of Obstetrics and Gynaecology of the British Commonwealth*, 75:1324-1327, 1968.
4. Daniel, D. G., H. Campbell, and A. C. Turnbull, "Puerperal Thromboembolism and Suppression of Lactation" *The Lancet*, 287-289, 1968.
5. Jeffcoat, T. N. A., et al., "Puerperal Thromboembolism in Relation to the Inhibition of Lactation by Oestrogen Therapy," *British Medical Journal*, 4:19-25, 1968.
6. Howie, P. W., et al., "The Effects of Stilbestrol and Quinestrol Upon Coagulation and Fibrinolysis During the Puerperium," *British Journal of Obstetrics and Gynecology*, 82:968-975, 1975.
7. Nilsen, P. A., A. Meling, and U. Abildgaard, "Study of the Suppression of Lactation and the Influence on Blood Clotting with Bromocriptine (CB 154) (Paralodel): A Double Blind Comparison with Diethylstilbestrol," *Acta Obstetrica et Gynecologica Scandinavica*, 55:39-44, 1976.
8. Ambrus, J. L., et al., "Effect of Various Estrogen Treatment Schedules on Antithrombin III Levels," *Research Communications in Chemical Pathology and Pharmacology*, 14:543-549, 1976.

The Director of the Bureau now proposes to withdraw approval of the new drug applications for estrogen-containing drug products that are labeled for use in postpartum breast engorgement. Specifically, the Director refers to the adverse effects of thrombophlebitis and embolism, which give an unfavorable benefit-to-risk ratio to such drugs for this indication, and the fact that other therapy, including analgesic drug products having less potential for risk, are readily available. Another notice appearing elsewhere in this issue of the FEDERAL REGISTER proposes to revoke that part of 21 CFR 310.515(b)(3) pertaining to breast engorgement. If the agency, following the administrative proceeding resulting from this notice concludes that estrogens are not shown to be safe for use in postpartum lactation suppression, it will issue a final rule on the matter and amend the September 29, 1976, notice regarding physician and patient labeling which serves as a guide for manufacturers and distributors of estrogenic drug products.

Various notices published in the FEDERAL REGISTER as part of the Drug Efficacy Study Implementation (DESI) project have covered specific estrogens. These include: DESI 740 (36

FR 21537, Nov. 10, 1971; 38 FR 26824, Sept. 26, 1973; 40 FR 8242, Feb. 26, 1975; and 40 FR 32774, Aug. 4, 1975); DESI 1543 (37 FR 14826, July 25, 1972; and 41 FR 43114, Sept. 29, 1976) DESI 7661 (37 FR 18225, Sept. 8, 1972; and 41 FR 43112, Sept. 29, 1976).

This notice applies not only to the particular estrogens subject to the Drug Efficacy Study and named in this notice but to all such products that are the subject of a new drug application approved either before or after the Drug Amendments of 1962 and also to any identical, related, or similar drug product (21 CFR 310.6) whether or not it is the subject of an approved new drug application.

1. NDA 0-740; Di-Ovoclyin Injection containing estradiol dipropionate; Ciba Pharmaceutical Co., Division Ciba-Geigy Corp., 556 Morris Ave., Summit, N.J. 07901.
2. NDA 4-039; Stilbestrol Ect. containing diethylstilbestrol; Eli Lilly & Co., Box 618, Indianapolis, Ind. 46206.
3. NDA 4-041; Stilbestrol Tablets and Injection containing diethylstilbestrol; Eli Lilly & Co.
4. NDA 4-056; Stilbestrol Tablets, Injection, and Suppositories containing diethylstilbestrol; E. R. Squibb & Sons, Inc., Box 4000, Princeton, N.J. 08540.
5. NDA 4-073; Stilbestrol Perles, Injection, and Suppositories containing diethylstilbestrol; The Upjohn Co., 7171 Portage Rd., Kalamazoo, Mich. 49002.
6. NDA 4-782; Premarin Tablets containing conjugated estrogens; Ayerst Laboratories, Division of American Home Products Corp., 685 Third Ave., New York, N.Y. 10017.
7. NDA 4-823; Estrone Injection containing estrone; Abbott Laboratories, 14th and Sheridan Rd., North Chicago, Ill. 60064.
8. NDA 5-159; Diethylstilbestrol Dipropionate Tablets containing diethylstilbestrol dipropionate; Blueline Laboratories, Inc., 302 South Broadway, St. Louis, Mo. 63102.
9. NDA 5-233; Diethylstilbestrol Tablets containing diethylstilbestrol; High Chemical Co., 1760 North Howard St., Philadelphia, Pa. 19122.
10. NDA 5-292; Estinyl Tablets containing ethinyl estradiol; Schering Corp., Galloping Hill Rd., Kenilworth, N.J. 07033.
11. NDA 7-661; AE Tablets and Tylosterone Tablets containing diethylstilbestrol and methyltestosterone; Eli Lilly & Co.
12. NDA 8-099; Tylosterone Injection containing diethylstilbestrol and methyltestosterone; Eli Lilly & Co.
13. NDA 8-102; Tace Tablets and Capsules containing chlorotrianisene; Merrell-National Laboratories, Division of Richardson-Merrell Inc., 110 East Amity Rd., Cincinnati, Ohio 45215.
14. NDA 8-579; Vallestril Tablets containing methallenestril; Searle Laboratories, Division of G. D. Searle & Co., Box 5100, Chicago, Ill. 60680.
15. NDA 9-402; Delestrogen Injection, Delestrogen 4X Injection, and Delestrogen 2X Injection containing estradiol valerate; E. R. Squibb & Sons, Inc.
16. NDA 9-545; Deladumone Injection containing testosterone enanthate and estradiol valerate; E. R. Squibb & Sons, Inc.

17. NDA 10-597; Tace-Androgen Capsules containing chlorotrianisene and methyltestosterone; Merrell-National Laboratories.

18. NDA 11-444; Tace Capsules containing chlorotrianisene and Tace with Ergonovine Capsules containing chlorotrianisene and ergonovine maleate; Merrell-National Laboratories.

19. NDA 16-235; Tace 72-Milligram Capsule containing chlorotrianisene; Merrell-National Laboratories.

20. NDA 17-768; Plestrovis Tablets containing quinestrol; Warner Chilcott Laboratories, Division Warner Lambert Co., 201 Tabor Rd., Box W, Morris Plains, N.J. 07950.

It is the responsibility of every drug manufacturer or distributor to review this notice to determine whether it covers any drug product that the person manufactures or distributes. Such person may request an opinion of the applicability of this notice to a specific drug product by writing to the Division of Drug Labeling Compliance (address given above).

The following drug entities, along with their salts and esters, are examples of estrogens that are covered by this notice; however this is not intended to be an exhaustive listing: Benzestrol, chlorotrianisene, conjugated estrogens, dienestrol, diethylstilbestrol, esterified estrogens, estradiol, estriol, estrone, ethinyl estradiol, hexestrol, mestranol, methallenestril, piperazine estrone sulfate, polyestradiol phosphate, promethestrol, and quinestrol.

Therefore, notice is given to the holders of the new drug applications and to all other interested persons that the Director of the Bureau of Drugs proposes to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)), withdrawing approval of the new drug applications providing for use of the drug products in postpartum breast engorgement and all amendments and supplements thereto on the ground that new evidence of clinical experience, not contained in such applications or not available until after such applications were approved, evaluated together with the evidence available when the applications were approved, shows that such drugs are not shown to be safe for use in postpartum breast engorgement. An order withdrawing approval will not issue with respect to any application supplemented on or before December 26, 1978, to delete the claim of use in postpartum breast engorgement from physician labeling, except for applications that are approved only for this indication.

In addition to the specific ground for the proposed withdrawal of approval stated above, this notice of opportunity for hearing encompasses all issues relating to the legal status of the drug products subject to it, e.g., any contention that the product is not

a new drug because it is generally recognized as safe and effective within the meaning of section 201(p) of the act or because it is exempt from part or all of the new drug provisions of the act pursuant to the exemption for products marketed prior to June 25, 1938, contained in section 201(p) of the act, or pursuant to section 107(c) of the Drug Amendments of 1962, or for any other reason.

In accordance with the provisions of section 505 of the act (21 U.S.C. 355), and the regulations promulgated thereunder (21 CFR Parts 310, 314), the applicants and all other persons who manufacture or distribute a drug product that is identical, related, or similar to a drug product named above (21 CFR 310.6) are hereby given an opportunity for a hearing to show why approval of the new drug applications providing for the claim involved should not be withdrawn and an opportunity to raise, for administrative determination, all issues relating to its legal status.

An applicant or any other person subject to this notice who decides to seek a hearing, shall file (1) on or before November 24, 1978, a written notice of appearance and request for hearing, and (2) on or before December 26, 1978, the data, information, and analyses relied upon to justify a hearing, as specified in 21 CFR 314.200. Any other interested person may also submit comments on this proposal to withdraw approval. The procedures and requirements governing this notice of opportunity for hearing, a notice of appearance and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and a grant or denial of hearing, are contained in 21 CFR 314.200.

The failure of an applicant or any other person subject to this notice pursuant to 21 CFR 310.6 to file timely written appearance and request for hearing as required by 21 CFR 314.200 constitutes an election not to make use of the opportunity for a hearing concerning the action proposed with respect to the drug products and a waiver of any contentions concerning the legal status of the drug products.

A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for hearing that there is no genuine and substantial issue of fact that precludes the withdrawal of approval of the applications, or when the request for hearing is not made in the required format or with the required analyses, the Com-

missioner of Food and Drugs will enter summary judgment against the person who requests the hearing, making findings and conclusions, denying a hearing.

All submissions pursuant to this notice of opportunity for hearing shall be filed in quintuplicate. Such submissions, except for data and information prohibited from public disclosure pursuant to 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the office of the Hearing Clerk between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050-1053, as amended (21 U.S.C. 352, 355)), and under the authority delegated to the Director of the Bureau of Drugs (21 CFR 5.82).

Dated: October 11, 1978.

J. RICHARD CROUT,
Director, Bureau of Drugs.

[FR Doc. 78-29845 Filed 10-23-78; 8:45 am]

[4110-03-M]

[Docket No. 77N-0378; DESI 12329]

GUANETHIDINE SULFATE

Drugs for Human Use; Drug Efficacy Study
Implementation; Followup Notice

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice states the conditions for marketing guanethidine sulfate for the indications for which it continues to be regarded as effective, allowing for the submission of abbreviated new drug applications (ANDAs). The drug is effective for lowering blood pressure.

DATE: Supplements to approved new drug applications (NDA's) due on or before December 26, 1978.

ADDRESSES: Communications forwarded in response to this notice should be identified with the reference number DESI 12329, directed to the attention of the appropriate office named below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20857.

Supplements to full new drug applications (identify with NDA number); Division of Cardio-Renal Drug Products (HFD-110), Room 16B-30, Bureau of Drugs.

Original abbreviated new drug applications or supplements thereto (identify as such): Division of Generic Drug Monographs (HFD-530), Bureau of Drugs.

Requests for the report of the National Academy of Sciences—National Research Council: Public Records and Document Center (HFI-35), Room 4-62.

Requests for opinion of the applicability of this notice to a specific product: Division of Drug Labeling Compliance (HFD-310), Bureau of Drugs.

Other communications regarding this notice: Drug Efficacy Study Implementation Project Manager (HFD-501), Bureau of Drugs.

FOR FURTHER INFORMATION CONTACT:

Herbert Gerstenzang, Bureau of Drugs (HFD-32), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3650.

SUPPLEMENTARY INFORMATION:

In a notice (DESI 12329) published in the FEDERAL REGISTER of June 22, 1971 (36 FR 11876), the Food and Drug Administration, having evaluated the drug described below, announced its conclusion that guanethidine sulfate is effective for its labeled indications. The notice also stated that new drug applications, containing full information required by the new drug application form FD-356H (21 CFR 314.1(c)), are required for marketing this product.

NDA 12-329; Ismelin Sulfate Tablets containing guanethidine sulfate; Ciba Pharmaceutical Co., Division of Ciba-Geigy Corp., 556 Morris Avenue, Summit, N.J. 07901.

Upon reevaluating the requirement of full NDA's for guanethidine sulfate, the Director of the Bureau of Drugs concludes that abbreviated new drug applications are appropriate for the drug.

Guanethidine sulfate was not included in the list of effective drugs (21 CFR 320.22(c)) having a known or potential bioequivalence problem published in the FEDERAL REGISTER of January 7, 1977 (42 FR 1649). That list had been developed based on review of all products that had been determined to be effective for at least one indication and eligible for abbreviated new drug applications. At that time, effective products requiring full NDA's from new applicants were not considered for inclusion in that list because, by its very nature, a pending full NDA can be required to contain bioavailability/bioequivalence data if such data are necessary. In treating for severe hypertension with guanethidine sulfate, close patient monitoring and drug titration are necessary. Guanethidine sulfate of varying bioavailability could result in either clinical failure or drug intoxication due to overdosage. For these reasons, the Director concludes that guanethidine sulfate is a

drug that should be added to the list in 21 CFR 320.22(c); i.e., it is a drug for which bioavailability data should not be waived. As stated in the notice of August 23, 1977 (42 FR 42311), amending and clarifying the bioavailability requirements, the list of drugs in 21 CFR 320.22(c) will be updated from time to time.

Accordingly, the June 22, 1971, notice is amended to read as follows:

Such drugs are regarded as new drugs (21 U.S.C. 321(p)). Supplemental new drug applications are required to revise the labeling in and to update previously approved applications providing for such drugs. An approved new drug application is a requirement for marketing such a drug product.

In addition to the product specifically named above, this notice applies to any drug product that is not the subject of an approved new drug application and is identical to the product named above. It may also be applicable, under 21 CFR 310.6, to a similar or related drug product that is not the subject of an approved new drug application. It is the responsibility of every drug manufacturer or distributor to review this notice to determine whether it covers any drug product that the person manufactures or distributes. Such person may request an opinion of the applicability of this notice to a specific drug product by writing to the Division of Drug Labeling Compliance (address given above).

A. Effectiveness classification. The Food and Drug Administration has reviewed all available evidence and concludes that the drug is effective for the indications in the labeling conditions below.

B. Conditions for approval and marketing. The Food and Drug Administration is prepared to approve abbreviated new drug applications and abbreviated supplements to previously approved new drug applications under conditions described herein.

1. **Form of drug.** Guanethidine sulfate is in tablet form suitable for oral administration.

2. **Labeling conditions.** a. The label bears the statement, "Caution: Federal law prohibits dispensing without prescription."

b. The drug is labeled to comply with all requirements of the act and regulations, and the labeling bears adequate information for safe and effective use of the drug. The indications are as follows:

For the treatment of severe hypertension, either alone or as an adjunct; and for the treatment of renal hypertension, including that secondary to pyelonephritis, renal amyloidosis, and renal artery stenosis.

3. **Marketing status.** a. Marketing of such a drug product that is now the subject of an approved or effective

new drug application may be continued provided that, on or before December 26, 1978, the holder of the application has submitted (i) a supplement for revised labeling as needed to be in accord with the labeling conditions described in this notice, and complete container labeling if current container labeling has not been submitted, and (ii) a supplement to provide updating information with respect to items (6) (components), (7) (composition), and (8) (methods, facilities, and controls) of new drug application form FD-356H (21 CFR 314.1(c)) to the extent required in abbreviated applications (21 CFR 314.1(f)). Holders of such applications are required to submit in vivo bioavailability data if any of the conditions of 21 CFR 320.21(b) apply.

b. Approval of an abbreviated new drug application (21 CFR 314.1(f)), must be obtained prior to marketing such products. Such abbreviated new drug applications are required to contain evidence from in vivo bioavailability studies comparing the product to an appropriate reference material. Such studies are to consist of single-and/or multiple/dose blood level comparison to the reference material. Multiple dose studies require prior submission of a notice of claimed investigational exemption for a New Drug (IND) including a protocol for such studies. Because of inherent toxicological side effects associated with this drug, it is advisable that firms submit a protocol with the ANDA prior to undertaking a single dose study in human subjects. Marketing prior to approval of a new drug application will subject such products, and those persons who caused the products to be marketed, to regulatory action.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050-1053, as amended (21 U.S.C. 352, 355)) and under the authority delegated to the Director of the Bureau of Drugs (21 CFR 5.70).

Dated: October 11, 1978.

J. RICHARD CROUT,
Director, Bureau of Drugs.

[FR Doc. 78-29841 Filed 10-23-78; 8:45 am]

[4110-03-M]

[Docket No. 75N-0223; DESI 3265]

**HEXOCYCLIUM METHYLSULFATE IN
CONTROLLED-RELEASE DOSAGE FORM**

**Opportunity for Hearing on Proposal to
Withdraw Approval of New Drug Application**

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration is reissuing a notice of opportunity for hearing on a proposal to withdraw approval of an anticholinergic drug containing hexocyclium methylsulfate in controlled-release dosage form. The ground for the proposed action is that the product lacks substantial evidence of effectiveness. The product has been used as an adjunct in the treatment of peptic ulcer.

DATES: Hearing requests due on or before November 24, 1978. All data and information relied upon in support of any such request and any other comments must be submitted on or before December 26, 1978.

ADDRESSES: Communications in response to this notice should be identified with the docket number 75N-0233 and the reference number DESI 3265, directed to the attention of the appropriate office named below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20857.

Requests for hearing, supporting data and information, and other comments: Hearing Clerk (HFA-305), Room 4-65.

Requests for opinion of the applicability of this notice to a specific product: Division of Drug Labeling Compliance (HFD-310), Bureau of Drugs.

**FOR FURTHER INFORMATION
CONTACT:**

William R. Durbin, Bureau of Drugs (HFD-32), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3650.

SUPPLEMENTARY INFORMATION: In a notice (DESI 3265) published in the FEDERAL REGISTER of June 18, 1971 (36 FR 11754), the Food and Drug Administration (FDA) announced its conclusions based on a report received from the National Academy of Sciences-National Research Council (NAS-NRC) that the drug product described below is probably effective for use as adjunctive therapy in the treatment of peptic ulcer.

In a notice published in the FEDERAL REGISTER of November 11, 1975 (40 FR 52651), the Director of the Bureau of Drugs offered an opportunity for hearing on a proposal to withdraw approval of the new drug applications for certain anticholinergic drugs in controlled-release dosage form, based upon lack of substantial evidence of effectiveness. The conclusion that the controlled-release products lack evidence of effectiveness was based upon the lack of any data demonstrating a prolonged effect, when compared with the products in conventional dosage form.

The following product was among those named in the November 11, 1975, notice:

Tral Gradumets (controlled-release tablets) containing hexocyclium methylsulfate; Abbott Laboratories, Abbott Park, 14th and Sheridan Road, North Chicago, Ill. 60064 (NDA 11-200).

The non-controlled-release form of hexocyclium methylsulfate (Tral Tablets) had previously been concluded to be an effective anticholinergic (36 FR 11754; June 18, 1971).

Although Abbott Laboratories did not formally request a hearing pursuant to the November 11, 1975, notice, in a letter of November 21, 1975, Abbott pointed out that it had earlier submitted studies to FDA that were intended to show the prolonged effect of the controlled-release product as compared to the conventional product and that FDA had approved these studies as adequate on January 8, 1974. The letter thus questioned the applicability of the November 11, 1975, notice to Tral Gradumets. Inadvertently, FDA had not referred to those studies or described their deficiencies in the November 11, 1975, notice, and in a notice published in the FEDERAL REGISTER of October 7, 1977 (42 FR 54617), the Director of the Bureau of Drugs withdrew approval of Tral Gradumets among other drugs. In a notice published in the FEDERAL REGISTER of February 7, 1978 (43 FR 5072), the Director rescinded the October 7, 1977,

notice insofar as it concerned Tral Gradumets.

Abbott Laboratories submitted the results of bioavailability studies by Drs. Freston, Rider, and Turner to demonstrate the prolonged effect of Tral Gradumets. These studies are discussed below.

The objective of these studies was to determine the comparative duration of effect of hexocyclium methylsulfate on gastric acid secretion when given as standard-release (Filmtab) or sustained-release (Gradumet) tablets in a placebo-controlled, double-blind, randomized, crossover study utilizing a currently recommended dosage schedule.

Freston compared the 25-milligram Filmtab and the 50-milligram Gradumet in 12 healthy male volunteers between the ages of 21 and 45, who produced an average of at least two milliequivalents of titratable acid per hour over a 4-hour fasting baseline. On the morning of each study day, a gastric tube was placed into the stomach, located by X-ray and secured in approximately the same position in each subject for each study day. Gastric contents were then continuously aspirated over a 12-hour period except for the hour following each drug dose to allow for drug absorption. Volume and acidity were measured hourly.

The following dosing schedule was employed using a three-way crossover design, with a 7-day washout between treatments.

Drug group	First dose (0 hr)	Second dose (6 hr)
I.....	Placebo Gradumet Placebo Filmtab.....	Placebo Filmtab.
II.....	Active Tral Gradumet 50 mg Placebo Filmtab.....	Placebo Filmtab.
III.....	Placebo Gradumet Active Tral Filmtab 25 mg.....	Active Tral Filmtab 25 mg.

The responses to the hexocyclium methylsulfate Gradumet and Filmtab were highly variable, as indicated by a large standard deviation in volume and acid secretion. There were significant reductions in the amount of acid secreted after both Tral treatments compared to the placebo treatment at nearly all collections (2d, 4th, 5th, 6th, 9th, and 10th hours). There was no longer a significant difference from placebo at the 11th hour, indicating that the duration of Tral Gradumet action was about 10 hours. The Filmtab group was still significantly different from placebo through the 11th hour, i.e., 5 hours after dosing. Differences between the Filmtab and Gradumet treatments were not statistically significant at any time.

Rider carried out a very similar study except that the in vivo gastric

pH was monitored over the 12-hour period utilizing a Heidelberg capsule. The gastric pH was titrated by administering an antacid (calcium carbonate) by mouth to maintain a pH of 3.5 or greater (physiologic anacidity) and he compared the number of tablets needed and the time interval between antacid administrations needed to maintain the pH. Thus, suppression of acid secretion would lead to greater intervals and fewer tablets.

Rider began with 12 subjects but one failed to complete the third (placebo) treatment. Placebo-treated subjects required significantly more antacid tablets than patients treated with Filmtabs or Gradumets during each 6-hour interval. There were no differences between the Gradumet and Filmtab treatments. The mean time interval in minutes between antacid administra-

tions was about 1.4 to 2.5 times greater for Gradumet and Filmtab treatments but the difference was statistically significant only for the Gradumet treatment. The study thus shows that the Gradumet has pharmacologic activity during the 6- to 12-hour time interval.

Both the Freston and Rider studies are fundamentally flawed in that they consist solely of a comparison of a single 50-milligram Gradumet with two 25-milligram Filmtabs given 6 hours apart. There is no comparison of the Gradumet with two conventional tablets given together. Without this comparison there is no way to tell whether the longer duration of action is due to the larger content of drug or represents true controlled release. The Freston study suggests the former may be the case. In that study, the 25-milligram Filmtab was pharmacologically active for at least 5 hours, and 50 milligrams of Filmtabs obviously would have been active longer—possibly as long as the 10-hour activity of the Gradumet. The studies thus fail to compare the Gradumet with the appropriate control. 21 CFR 14.111(a)(5)(ii)(a)(4).

Turner conducted a third study using a similar protocol except that (1) the comparative duration of action of hexocyclium methylsulfate was based on the measurement of anticholinergic response as observed by pupillary and salivary changes, and (2) the study lasted only 6 hours. The latter difference is fatal to the study, however, as it cannot possibly demonstrate sustained action of the Gradumet.

In summary, the studies relied upon by Abbott fail to demonstrate sustained-released characteristics of Tral Gradumet tablets and thus do not satisfy the requirements of 21 CFR 320.21.

The proper study to demonstrate the sustained-release claim would consist of a 3- or 4-way crossover study comparing two 25-milligram immediate-release Tral tablets given at 0 hour, one 25-milligram Tral tablet administered at 0 and 6 hours, and one 50-milligram Tral Gradumet administered at 0 hour. A placebo group is optional and probably would not be necessary if a difference between the 50-milligram sustained-release and 50-milligram immediate-release groups was seen in the later hours. The appropriate design was pointed out to Abbott in a letter of March 31, 1976.

On the basis of all of the data and information available to him, the Director of the Bureau of Drugs is unaware of any adequate and well-controlled clinical investigations, conduct-

ed by experts qualified by scientific training and experience, meeting the requirements of section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355), and 21 CFR 314.111(a)(5) which provide substantial evidence of effectiveness for Tral Gradumet tablets (NDA 11-200).

Therefore, notice is given to the holder of the new drug application and to all other interested persons that the Director of the Bureau of Drugs proposes to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)), withdrawing approval of the new drug application (or if indicated above, those parts of the application providing for the drug product listed above) and all amendments and supplements thereto on the ground that new information before him with respect to the drug product, evaluated together with the evidence available to him at the time of approval of the application, shows 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 the labeling.

In addition to the holder of the new drug application specifically named above, this notice of opportunity for hearing applies to all persons who manufacture or distribute a drug product that is identical, related, or similar to a drug product named above, as defined in 21 CFR 310.6. It is the responsibility of every drug manufacturer or distributor to review this notice of opportunity for hearing to determine whether it covers any drug product that the person manufactures or distributes. Such person may request an opinion of the applicability of this notice to a specific drug product by writing to the Division of Drug Labeling Compliance (address given above).

In addition to the ground for the proposed withdrawal of approval stated above, this notice of opportunity for hearing encompasses all issues relating to the legal status of the drug products subject to it (including identical, related, or similar drug products as defined in 21 CFR 310.6) e.g., any contention that any such product is not a new drug because it is generally recognized as safe and effective within the meaning of section 201(p) of the act or because it is exempt from part or all of the new drug provisions of the act pursuant to the exemption for products marketed prior to June 25, 1938, contained in section 201(p) of the act, or pursuant to section 107(c) of the Drug Amendments of 1962, or for any other reason.

In accordance with the provisions of section 505 of the act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR Parts 310, 314),

the applicant and all other persons subject to this notice pursuant to 21 CFR 310.6 are hereby given an opportunity for a hearing to show why approval of the new drug application should not be withdrawn and an opportunity to raise, for administrative determination, all issues relating to the legal status of a drug product named above and of all identical, related, or similar drug products.

An applicant or any other person subject to this notice pursuant to 21 CFR 310.6 who decides to seek a hearing, shall file (1) on or before November 24, 1978, a written notice of appearance and request for hearing, and (2) on or before December 26, 1978, the data, information, and analyses relied on to justify a hearing, as specified in 21 CFR 314.200. Any other interested person may also submit comments on this notice. The procedures and requirements governing this notice of opportunity for hearing, a notice of appearance and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and a grant or denial of hearing, are contained in 21 CFR 314.200.

The failure of an applicant or any other person subject to this notice pursuant to 21 CFR 310.6 to file timely written appearance and request for hearing as required by 21 CFR 314.200 constitutes an election by the person not to make use of the opportunity for a hearing concerning the action proposed with respect to the product and constitutes a waiver of any contentions concerning the legal status of any such drug product. Any such drug product may not thereafter lawfully be marketed, and the Food and Drug Administration will initiate appropriate regulatory action to remove such drug products from the market. Any new drug product marketed without an approved NDA is subject to regulatory action at any time.

A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for the hearing that there is no genuine and substantial issue of fact which precludes the withdrawal of approval of the application, or when a request for hearing is not made in the required format or with the required analyses, the Commissioner of Food and Drugs will enter summary judgment against the person(s) who requests the hearing, making findings and conclusions, denying a hearing.

All submissions pursuant to this notice shall be filed in quintuplicate.

Such submissions, except for data and information prohibited from public disclosure pursuant to 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the office of the Hearing Clerk between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052-1053, as amended (21 U.S.C. 355)), and under authority delegated to the Director of the Bureau of Drugs (21 CFR 5.82).

Dated: October 11, 1978.

J. RICHARD CROUT,
Director, Bureau of Drugs.

[FR Doc. 78-29840 Filed 10-20-78; 8:45 am]

[4110-03-M]

[Docket No. 78N-0283; DESI 8048]

LIDOCAINE OINTMENT 5 PERCENT

Drugs for Human Use; Drug Efficacy Study Implementation; Followup Notice and Opportunity for Hearing

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice sets forth the conditions for marketing lidocaine ointment 5 percent for the indications for which it is now regarded as effective and offers an opportunity for a hearing concerning other indications reclassified to lacking substantial evidence of effectiveness. The drug is used as a local anesthetic.

DATES: Hearing requests due on or before November 24, 1978.

Supplements to approved NDA's due on or before December 26, 1978.

ADDRESSES: Communications forwarded in response to this notice should be identified with the reference number DESI 8048, directed to the attention of the appropriate office named below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20857.

Supplements to full new drug applications (identify with NDA number): Division of Surgical-Dental Drug Products (HFD-160), Rm. 16B-03, Bureau of Drugs.

Original abbreviated new drug applications and supplements thereto (identify as such): Division of Generic Drug Monographs (HFD-530), Bureau of Drugs.

Requests for Hearing (identify with docket number appearing in the heading of this notice): Hearing Clerk, Food and Drug Administration (HFA-305), Rm. 4-65.

Requests for the report of the National Academy of Sciences-National Research Council: Public Records and Document Center (HFI-35), Rm. 4-62.

Requests for opinion of the applicability of this notice to a specific product: Division of Drug Labeling Compliance (HFD-310), Bureau of Drugs.

Other communications regarding this notice: Drug Efficacy Study Implementation Project Manager (HFD-501), Bureau of Drugs.

FOR FURTHER INFORMATION CONTACT:

Herbert Gerstenzang, Bureau of Drugs (HFD-32), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3650.

SUPPLEMENTARY INFORMATION: In a notice (DESI 8048) published in the *FEDERAL REGISTER* of September 3, 1970 (35 FR 14020), the Food and Drug Administration announced its conclusions that the drug described below is (1) effective for production of anesthesia of accessible mucous membranes of the oropharynx; and (2) possibly effective for the control of itching, burning, and other unpleasant symptoms due to abrasions, herpes zoster, eczema, and similar conditions; hemorrhoids; fissures; postoperative anorectal conditions; nipple soreness; and anesthesia of unbroken skin.

NDA 8-048; Xylocaine Ointment 5 Percent containing 5 percent lidocaine; Astra Pharmaceutical Products Inc., 7 Neponset St., Worcester, Mass. 01606.

Xylocaine Ointment 2.5 percent, an over-the-counter (OTC) drug product, was also included in the September 3, 1970 notice. It will be handled by the OTC review and is not affected by this notice.

Astra submitted data, both to its new drug application and to the OTC review, to demonstrate effectiveness of the drug for certain of its possibly effective indications. On August 6, 1974, Astra was informed that the data submitted for the indication "for topical anesthesia of the anorectal tissues in the treatment of conditions such as anal fissures" did not provide substantial evidence of effectiveness. On August 1, 1975, Astra supplemented its new drug application to delete all the indications classified as possibly effective, except for the indication "for the temporary relief of pain associated with minor abrasions of the skin," and added the indication "as an anesthetic lubricant for endotracheal intubation." The latter indication was supported by the information submitted. On November 24, 1975, FDA informed Astra that the revised labeling was "permitted" pending resolution of the effectiveness of all the claims.

Other data in support of the possibly effective indication have been reviewed and determined to provide substantial evidence of effectiveness for the indication "for the temporary

relief of pain and itching associated with minor burns and abrasions of the skin." That indication is now upgraded to effective. No data providing substantial evidence of effectiveness were submitted for the other possibly effective indications, and they are reclassified to lacking substantial evidence of effectiveness.

Accordingly, the September 3, 1970 notice is amended to read as follows insofar as it pertains to lidocaine ointment 5 percent.

Such drugs are regarded as new drugs (21 U.S.C. 321(p)). Supplemental new drug applications are required to revise the labeling in and to update previously approved applications providing for such drugs. An approved new drug application is a requirement for marketing such drug products.

In addition to the product specifically named above, this notice applies to any drug product that is not the subject of an approved new drug application and is identical to the product named above. It may also be applicable, under 21 CFR 310.6, to a similar or related drug product that is not the subject of an approved new drug application. It is the responsibility of every drug manufacturer or distributor to review this notice to determine whether it covers any drug product that the person manufactures or distributes. Such person may request an opinion of the applicability of this notice to a specific drug product by writing to the Division of Drug Labeling Compliance (address given above).

A. Effectiveness classification. The Food and Drug Administration has reviewed all available evidence and concludes that the drug is effective for the indications in the labeling conditions below. The drug lacks substantial evidence of effectiveness for all other indications.

B. Conditions for approval and marketing. The Food and Drug Administration is prepared to approve abbreviated new drug applications and abbreviated supplements to previously approved new drug applications under conditions described herein.

1. Form of drug. The drug is in ointment form suitable for topical administration.

2. Labeling conditions. a. The label bears the statement, "Caution: Federal law prohibits dispensing without prescription."

b. The drug is labeled to comply with all requirements of the act and regulations, and the labeling bears adequate information for safe and effective use of the drug. The indications are as follows:

For production of anesthesia of accessible mucous membranes of the oropharynx.

For use as an anesthetic lubricant for endotracheal intubation.

For the temporary relief of pain and itching associated with minor burns and abrasions of the skin.

3. Marketing status. a. Marketing of such drug products that are now the subject of an approved or effective new drug application may be continued provided that, on or before December 26, 1978, the holder of the application has submitted (i) a supplement for revised labeling as needed to be in accord with the labeling conditions described in this notice, and complete container labeling if current container labeling has not been submitted, and (ii) a supplement to provide updating information with respect to items 6 (components), 7 (composition), and 8 (methods, facilities, and controls) of new drug application form FD-356H (21 CFR 314.1(c)) to the extent required in abbreviated applications (21 CFR 314.1(f)).

b. Approval of an abbreviated new drug application (21 CFR 314.1(f)) must be obtained prior to marketing such products. Bioavailability regulations (21 CFR 320.21) published in the *FEDERAL REGISTER* of January 7, 1977, require any person submitting an abbreviated new drug application after July 7, 1977, to include either evidence demonstrating the in vivo bioavailability of the drug or information to permit waiver of the requirement, unless such evidence is already waived under §320.22(c) (21 CFR 320.22(c)). Marketing prior to approval of a new drug application will subject such products, and those persons who caused the products to be marketed, to regulatory action.

C. Notice of opportunity for hearing. On the basis of all the data and information available to him, the Director of the Bureau of Drugs is unaware of any adequate and well-controlled clinical investigation, conducted by experts qualified by scientific training and experience, meeting the requirements of section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) and 21 CFR 314.111(a)(5), demonstrating the effectiveness of the drug for the indications lacking substantial evidence of effectiveness referred to in paragraph A of this notice.

Notice is given to the holder of the new drug application, and to all other interested persons, that the Director of the Bureau of Drugs proposes to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)), withdrawing approval of the new drug application and all amendments and supplements thereto providing for the indications lacking substantial evidence of effectiveness referred to in paragraph A of this notice on the ground that new information before him with respect to the drug product, evaluated together with the evidence available to him at

the time of approval of the application, shows there is a lack of substantial evidence that the drug product will have all the effects it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling. An order withdrawing approval will not issue with respect to any application supplemented, in accord with this notice, to delete the claims lacking substantial evidence of effectiveness.

In addition to the ground for the proposed withdrawal of approval stated above, this notice of opportunity for hearing encompasses all issues relating to the legal status of the drug products subject to it (including identical, related, or similar drug products as defined in 21 CFR 310.6), e.g., any contention that any such product is not a new drug because it is generally recognized as safe and effective within the meaning of section 201(p) of the act or because it is exempt from part or all of the new drug provisions of the act pursuant to the exemption for products marketed prior to June 25, 1938, contained in section 201(p) of the act, or pursuant to section 107(c) of the Drug Amendments of 1962, or for any other reason.

In accordance with the provisions of section 505 of the act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR Parts 310, 314), the applicant and all other persons who manufacture or distribute a drug product that is identical, related, or similar to the drug product named above (21 CFR 310.6) are hereby given an opportunity for a hearing to show why approval of the new drug application providing for the claims involved should not be withdrawn and an opportunity to raise, for administrative determination, all issues relating to the legal status of a drug product named above and all identical, related, or similar drug products.

An applicant or any person subject to this notice pursuant to 21 CFR 310.6 who decides to seek a hearing shall file (1) on or before November 24, 1978, a written notice of appearance and request for hearing, and (2) on or before December 26, 1978, the data, information, and analyses relied on to justify a hearing, as specified in 21 CFR 314.200. Any other interested person may also submit comments on this proposal to withdraw approval. The procedures and requirements governing this notice of opportunity for hearing, a notice of appearance and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and a grant or denial of hearing, are contained in 21 CFR 314.200.

The failure of an applicant or any other person subject to this notice

pursuant to 21 CFR 310.6 to file timely written appearance and request for hearing as required by 21 CFR 314.200 constitutes an election by such person not to make use of the opportunity for a hearing concerning the action proposed with respect to such drug product and a waiver of any contentions concerning the legal status of such drug product. Any such drug product labeled for the indications lacking substantial evidence of effectiveness referred to in paragraph A of this notice may not thereafter lawfully be marketed, and the Food and Drug Administration will initiate appropriate regulatory action to remove such drug products from the market. Any new drug product marketed without an approved NDA is subject to regulatory action at any time.

A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for the hearing that there is no genuine and substantial issue of fact which precludes the withdrawal of approval of the application, or when a request for hearing is not made in the required format or with the required analyses, the Commissioner of Food and Drugs will enter summary judgment against the person(s) who requests the hearing, making findings and conclusions, denying a hearing.

All submissions pursuant to this notice of opportunity for hearing shall be filed in quintuplicate. Such submissions, except for data and information prohibited from public disclosure pursuant to 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the office of the Hearing Clerk between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050-1053, as amended (21 U.S.C. 352, 355)) and under the authority delegated to the Director of the Bureau of Drugs (21 CFR 5.82).

Dated: October 13, 1978.

J. RICHARD CROUT,
Director, Bureau of Drugs.

[FR Doc. 78-29844 Filed 10-23-78; 8:45 am]

[4110-03-M]

PUBLIC ADVISORY COMMITTEES

Request for Nominations for Voting Members

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This document requests nominations for voting members to serve on certain public advisory committees of the Bureau of Drugs. Nominations will be accepted for vacancies that currently exist and vacancies that will or may occur on the committees during the next 12 months.

DATES: Since scheduled vacancies occur on various dates throughout each year, no cutoff date is established for the receipt of nominations. However, nominations should be received at least 90 days before the dates of scheduled vacancies for each year, as indicated in the list of the advisory committees given in this notice.

ADDRESS: All nominations for the voting members of the respective advisory committees must be sent to: Joseph F. Price, Bureau of Drugs (HFD-22), Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Joseph F. Price, at the address given above, 31-443-4090.

SUPPLEMENTARY INFORMATION: The Food and Drug Administration requests nominations for voting members for the following 13 advisory committees.

1. Anesthetic and Life Support Drugs Advisory Committee: 1 vacancy, June 30.
2. Anti-Infective and Topical Drugs Advisory Committee: 1 vacancy, December 31.
3. Arthritis Advisory Committee: 1 vacancy, September 30.
4. Cardiovascular and Renal Drugs Advisory Committee: 1 vacancy, June 30.
5. Endocrinologic and Metabolic Drugs Advisory Committee: 1 vacancy, June 30.
6. Fertility and Maternal Health Drugs Advisory Committee: 1 vacancy, June 30.
7. Gastrointestinal Drugs Advisory Committee: 1 vacancy, June 30.
8. Oncologic Drugs Advisory Committee: 1 vacancy, June 30.
9. Peripheral and Central Nervous System Drugs Advisory Committee: 1 vacancy, January 31.
10. Psychopharmacologic Drugs Advisory Committee: 1 vacancy, June 30.
11. Pulmonary-Alergy Drugs Advisory Committee: 1 vacancy, June 30.
12. Radiopharmaceutical Drugs Advisory Committee: 1 vacancy, June 30.

The function of the 12 committees listed above is to review and evaluate available data concerning the safety and effectiveness of marketed and investigational prescription drugs for use in the area of the medical specialties indicated by the title of the com-

mittee, and to make appropriate recommendations to the Commissioner of Food and Drugs.

13. Drug Abuse Advisory Committee: vacancy, June 30.

The function of the Drug Abuse Advisory Committee is to (1) advise the Commissioner regarding the scientific and medical evaluation of all information gathered by both the Department of Health, Education, and Welfare (DHEW) and the Department of Justice regarding the safety, efficacy, and abuse potential for drugs or other substances and (2) recommend actions to be taken by the DHEW regarding the marketing, investigation, and control of such drugs or other substances.

Persons nominated for membership shall have adequately diversified experience appropriate to the work of the committee in such fields as infectious disease, internal medicine, microbiology, pharmacology, psychiatry, neurology, obstetrics and gynecology, surgery, ophthalmology, anesthesiology, nuclear medicine, epidemiology, statistics, or other appropriate areas of expertise. The nature of specialized training and experience necessary to qualify the nominee as an expert suitable for appointment is subject to review, but may include experience in medical practice, teaching, and/or research relevant to the field of activity of the committee. The term of office is 4 years.

In recent months, concerns have been expressed about the need for insuring "balanced advocacy" in decisionmaking at the Federal level; these concerns have been expressed by Congress and also in the report by the Commissioner of Food and Drugs to the Secretary of the Department of Health, Education, and Welfare on findings and recommendations of the review panel on new drug regulations. Additionally, an expanded concept of risk-benefit judgments has evolved in scientific, public, and government circles from one of purely scientific assessment to one which also incorporates global value judgments.

Accordingly, through this announcement, it is the Commissioner's intent to broaden the field from which potential members of these committees may be chosen in order to provide a wide range of viewpoints on issues addressed by the committees. Specifically, in addition to nominations from scientific and professional organizations, the Commissioner seeks nominations of well qualified individuals by consumer oriented and public interest groups. Because of the technical nature of the work performed by the committees, emphasis will be on a scientific background which permits in-depth review and critical analysis of clinical data in investigational new drug applications and of new drug ap-

plications submitted to obtain marketing approval of drugs. However, for certain committees, for example, the Fertility and Maternal Health Drugs Advisory Committee, the classical background needed for review of clinical data in investigational and new drug applications may be supplied by other experience or specialized knowledge which would be of value to the work of the committee. Because the Fertility and Maternal Health Drugs Advisory Committee deals with the optional use of drugs (such as oral contraceptives, medicated intrauterine devices, drugs used for analgesia in obstetrical labor, as well as drugs used for voluntary termination of pregnancy), experience in consumer concerns relating to the possible effects of these drugs on women and fetuses would add an important dimension to this committee.

Any interested person may nominate one or more qualified persons for membership on one or more of the advisory committees. Nominations shall specify the committee for which the nominee is recommended. Nominations shall state that the nominee is aware of the nomination, is willing to serve as a member of the advisory committee, and appears to have no conflict of interest that would preclude committee membership. Potential candidates will be asked by the Food and Drug Administration to provide detailed information concerning such matters as financial holdings, consultancies, and research grants or contracts, in order to permit evaluation of possible sources of conflict of interest.

The Food and Drug Administration has a special interest in assuring that women and minority groups are adequately represented on advisory committees and therefore extends particular encouragement to nominations for appropriately qualified female and minority candidates.

This notice is issued under the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)) and 21 CFR part 14, relating to advisory committees.

Dated: October 17, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner
for Regulatory Affairs.

[FR Doc. 78-29738 Filed 10-23-78, 8:45 am]

[4110-03-M]

[Docket No. 78N-0278; DESI 5378 and 101871]

**UNIFORM PHYSICIAN LABELING FOR
STIMULANT DRUGS FOR CHILDREN**

Revised Labeling

AGENCY: Food and Drug Administration (FDA).

ACTION: Notice.

SUMMARY: This notice amends the physician labeling of drug products containing amphetamines, methylphenidate, and pemoline to provide uniform labeling concerning their use in children. This action is being taken because the agency recognized the need for more accurately describing and providing information on the syndromes for which stimulant drugs are used in children. The drugs are used in the treatment of children with a behavioral syndrome characterized by hyperactivity, distractibility, and impulsiveness.

DATES: Supplements to approved NDA's due on or before December 26, 1978. Revised labeling to be used on or before February 21, 1979.

ADDRESSES: Communications forwarded in response to this notice should be identified with the docket number 78N-0278, directed to the attention of the appropriate office named below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20857.

Supplements (identify with NDA number): Division of Neuropharmacological Drug Products (HFD-120), Room 10B-34, Bureau of Drugs.

Original abbreviated new drug applications and supplements thereto (identify as such): Division of Generic Drug Monographs (HFD-530), Bureau of Drugs.

Requests for opinion of the applicability of this notice to a specific product: Division of Drug Labeling Compliance (HFD-310), Bureau of Drugs.

FOR FURTHER INFORMATION CONTACT:

Ronald L. Wilson, Bureau of Drugs (HFD-32), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3650.

SUPPLEMENTARY INFORMATION: After reviewing the physician labeling for several drugs which were approved for use in children for the treatment of hyperkinesia and/or minimal brain dysfunction, the FDA Pediatric Advisory Panel found that there is considerable variance in the physician labeling of these drugs. The panel also concluded that "minimal brain dysfunction"

tion" (MBD) is an inappropriate diagnostic term that does not accurately characterize the behavioral syndromes for which these drugs are effective. The problem in using this term is that while MBD refers to several symptoms (hyperactivity, distractibility, short attention span, minor neurological dysfunction), no single symptom or set of symptoms defines the term MBD. In addition, the FDA Pediatric Advisory Panel concluded that the term MBD (sometimes referred to as "minimal brain damage") implies the presence of an organic lesion which often cannot be demonstrated in patients with these symptoms.

Therefore the FDA Pediatric Advisory Panel drafted uniform physician labeling to more accurately describe the syndromes for which the stimulant drugs have been found effective. The labeling as described below also provides uniform information concerning the drugs' use, and eliminates the term "minimum brain dysfunction." The panel unanimously approved the labeling at its meeting on April 25, 1975, after the FDA Psychopharmacological Agents Advisory Committee approved it on October 17, 1974.

REFERENCES

1. Minutes of the Psychopharmacological Agents Advisory Committee Meeting, October 17, 1974.

2. Minutes of the Pediatric Advisory Panel, April 25, 1975.

Reprints of the above references have been placed on file with the Hearing Clerk (HFA-305), Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, and may be seen between 9 a.m. and 4 p.m., Monday through Friday.

In view of these findings and recommendations of the FDA Pediatric Advisory Panel, the Director of the Bureau of Drugs concludes that the labeling of stimulant drugs used in children should be uniform in presenting information about such use, as well as more informative. Accordingly, the physician labeling for such drug products should be revised to include the following:

ACTIONS

There is neither specific evidence which clearly establishes the mechanism whereby (*name of drug*) produces its mental and behavioral effects in children, nor conclusive evidence regarding how these effects relate to the condition of the central nervous system.

INDICATIONS

(*Name of drug*) is indicated as an integral part of a total treatment program which typically includes other remedial measures (psychological, educational, social) for a stabilizing effect

in children with a behavioral syndrome characterized by the following group of developmentally inappropriate symptoms: moderate to severe distractibility, short attention span, hyperactivity, emotional lability, and impulsivity. The diagnosis of this syndrome should not be made with finality when these symptoms are only of comparatively recent origin. Nonlocalizing (soft) neurological signs, learning disability, and abnormal EEG may or may not be present, and a diagnosis of central nervous system dysfunction may or may not be warranted.

WARNINGS

Clinical experience suggest that in psychotic children, administration of (*name of drug*) may exacerbate symptoms of behavior disturbance and thought disorder.

Data are inadequate to determine whether chronic administration of (*name of drug*) may be associated with growth inhibition; therefore, growth should be monitored during treatment.

PRECAUTIONS

Drug treatment is not indicated in all cases of this behavioral syndrome and should be considered only in light of the complete history and evaluation of the child. The decision to prescribe (*name of drug*) should depend on the physician's assessment of the chronicity and severity of the child's symptoms and their appropriateness for his/her age. Prescription should not depend solely on the presence of one or more of the behavioral characteristics.

When these symptoms are associated with acute stress reactions, treatment with (*name of drug*) is usually not indicated.

Long-term effects of (*name of drug*) in children have not been well-established.

DOSAGE AND ADMINISTRATION

Where possible, drug administration should be interrupted occasionally to determine if there is a recurrence of behavioral symptoms sufficient to require continued therapy.

The following drug entities, and their salts and esters, are examples of stimulant drugs which are covered by this notice: amphetamines, pemoline, and methylphenidate hydrochloride. The term amphetamine includes dextroamphetamine, di-amphetamine, methamphetamine (which is used in this notice to cover both the dextro-isomer and the racemate), a mixture of dextroamphetamine and di-amphetamine.

The notice applies not only to the particular stimulant drugs subject to the drug efficacy study but to all stim-

ulant drug products for use in children that are the subject of new drug applications approved either before or after the Drug Amendments of 1962 and also to any identical, related, or similar drug product (21 CFR 310.6), whether or not it is the subject of an approved new drug application. Any person may request an opinion of the applicability of this notice to a specific drug product the person manufactures or distributes by writing to the Division of Drug Labeling Compliance (address given above). The following stimulant drugs were reviewed by the drug efficacy study and conclusions on them were published in the following FEDERAL REGISTER notices: October 7, 1970 (35 FR 15771; DESI 10187) and April 28, 1978 (43 FR 18256) Methylphenidate hydrochloride and July 19, 1974 (39 FR 26459; DESI 5378) Dextroamphetamine, di-Amphetamine, and Methamphetamine.

Supplements to approved NDA's or ANDA's providing for appropriate revision of labeling to add the above labeling are to be submitted on or before December 26, 1978. The revised labeling is to be put into use by February 2, 1979, or at the next printing of the labeling, whichever occurs first. The revised labeling may be put into use without advance approval by the Food and Drug Administration.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050-1053, as amended (21 U.S.C. 352, 355)) and under the authority delegated to the Director of the Bureau of Drugs (21 CFR 5.70).

Dated: October 13, 1978.

J. RICHARD CROUT,
Director, Bureau of Drugs.

[FR Doc. 78-29843 Filed 10-23-78; 8:45 am]

[4110-08-M]

National Institutes of Health

REPORT ON BIOASSAY OF 3-CHLORO-P-TOLUIDINE FOR POSSIBLE CARCINOGENICITY

Availability

3-Chloro-p-toluidine (CAS 95-74-9) has been tested for cancer-causing activity with rats and mice in the Bioassay Program, Division of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

Summary: A bioassay for the possible carcinogenicity of 3-chloro-p-toluidine was conducted using Fischer 344 rats and B6C3F1 mice. Applications of the chemical include use as an intermediate in dye manufacture and as an avicide. 3-Chloro-p-toluidine was ad-

ministered in the feed, at either of two concentrations, to groups of 50 male and 50 female animals of each species.

Under the conditions of this bioassay there was no convincing evidence for the carcinogenicity of 3-chloro-p-toluidine in Fischer 344 rats or B6C3F1 mice.

Single copies of the report are available from the Office of Cancer Communications National Cancer Institute, Building 31, Room 10A21, National Institutes of Health, Bethesda, Md. 20014.

(Catalogue of Federal Domestic Assistance Program Number 13.393, Cancer Cause and Prevention Research.)

Dated: October 11, 1978.

DONALD S. FREDRICKSON,
Director,
National Institutes of Health.

[FR Doc. 78-29306 Filed 10-23-78, 8:45 am]

[4110-08-M]

REPORT ON BIOASSAY OF MEXACARBATE FOR POSSIBLE CARCINOGENICITY

Availability

Mexacarbate (CAS 315-18-4) has been tested for cancer-causing activity with rats and mice in the Bioassay Program, Division of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

Summary: A bioassay of technical-grade mexacarbate for the possible carcinogenicity was conducted using Osborne-Mendel rats and B6C3F1 mice. Applications of the chemical include use as an agricultural pesticide. Mexacarbate was administered in the feed, at either of two concentrations, to groups of 50 male and 50 female animals of each species.

Under the conditions of this bioassay, sufficient evidence was not obtained for the carcinogenicity of mexacarbate for Osborne-Mendel rats or B6C3F1 mice.

Single copies of the report are available from the Office of Cancer Communications National Cancer Institute, Building 31, Room 10A21, National Institutes of Health, Bethesda, Md. 20014.

(Catalogue of Federal Domestic Assistance Program Number 13.393, Cancer Cause and Prevention Research.)

Dated: October 11, 1978.

DONALD S. FREDRICKSON,
Director,
National Institutes of Health.

[FR Doc. 78-29305 Filed 10-23-78, 8:45 am]

[4110-08-M]

REPORT ON BIOASSAY OF 5-NITRO-O-ANISIDINE FOR POSSIBLE CARCINOGENICITY

Availability

5-Nitro-o-anisidine (CAS 99-59-2) has been tested for cancer-causing activity with rats and mice in the Bioassay Program, Division of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

Summary: A bioassay of 5-nitro-o-anisidine for possible carcinogenicity was conducted using Fischer 344 rats and B6C3F1 mice. Applications of the chemical include use as an intermediate in the manufacture of dyes. 5-Nitro-o-anisidine was administered in the feed, at either of two concentrations, to groups of 50 male and 50 female animals of each species.

Under the conditions of this bioassay, dietary administration of 5-nitro-o-anisidine was carcinogenic in Fischer 344 rats, causing tumors of the integumentary system in males and females and of the clitoral gland in females. The compound was also carcinogenic to female B6C3F1 mice causing hepatocellular carcinomas.

Single copies of the report are available from the Office of Cancer Communications, National Cancer Institute, Building 31, Room 10A21, National Institutes of Health, Bethesda, Md. 20014.

(Catalogue of Federal Domestic Assistance Program Number 13.393, Cancer Cause and Prevention Research.)

Dated: October 11, 1978.

DONALD S. FREDRICKSON,
Director,
National Institutes of Health.

[FR Doc. 78-29307 Filed 10-23-78, 8:45 am]

[4110-08-M]

REPORT ON BIOASSAY OF TRIPHENYLTIN HYDROXIDE FOR POSSIBLE CARCINOGENICITY

Availability

Triphenyltin hydroxide (CAS 76-87-9) has been tested for cancer-causing activity with rats and mice in the Bioassay Program, Division of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

Summary: A bioassay of triphenyltin hydroxide for possible carcinogenicity was conducted using Fischer 344 rats and B6C3F1 mice. Applications of the chemical include use as a fungicide and as an insect control agent. Triphenyltin hydroxide was administered in the feed, at either of two concentrations, to groups of 50 male and 50 female animals of each species.

Under the conditions of this bioassay, there was no evidence for the carcinogenicity of triphenyltin hydroxide to Fischer 344 rats or to B6C3F1 mice.

Single copies of the report are available from the Office of Cancer Communications, National Cancer Institute, Building 31, Room 10A21, National Institutes of Health, Bethesda, Md. 20014.

(Catalogue of Federal Domestic Assistance Program Number 13.393, Cancer Cause and Prevention Research.)

Dated: October 11, 1978.

DONALD S. FREDRICKSON,
Director,
National Institutes of Health.

[FR Doc. 78-29308 Filed 10-23-78, 8:45 am]

[4110-02-M]

Office of Education

GUARANTEED STUDENT LOAN PROGRAM

Special Allowance for Quarter Ending September 30, 1978

The Commissioner announces that for the 3-month period ending September 30, 1978, and under the statutory formula of section 438(b) of the Higher Education Act of 1965, a special allowance at the annual rate of 4½ percent will be paid to holders of eligible loans in the Guaranteed Student Loan Program.

Using the statutory formula, the special allowance for this 3-month period was computed by determining the average of the bond equivalent rates of the 91-day Treasury bills for this period (7.53 percent), by subtracting 3.5 percent from this average, by rounding the resultant percent (4.03) upward to the nearest one-eighth of 1 percent (4.125), and by dividing the resultant percent by 4 (1.03125 percent). Thus, the special allowance to be paid for this period will be 1.03125 percent of the average unpaid balance of principal (not including unearned interest added to principal) of all eligible loans held by lenders.

(20 U.S.C. 1087-1(b).)

ERNEST L. BOYER,
Commissioner of Education.

October 16, 1978.

[FR Doc. 78-29919 Filed 10-23-78, 8:45 am]

[4110-02-M]

HEALTH EDUCATION ASSISTANCE LOAN PROGRAM

Variable Interest Rate for Quarter Ending December 31, 1978

The Commissioner announces that for the 3-month period ending December 31, 1978, the variable interest rate on loans in the Health Education Assistance Loan (HEAL) Program shall be at the annual rate of 11½ percent.

Using the regulatory formula (45 CFR 126.13(a) (2) and (3)), the Commissioner computed the variable rate for this 3-month period by adding the fixed annual rate (7 percent) plus a variable component which is calculated by determining the average of the bond equivalent rates of the 91-day Treasury bills for the preceding calendar quarter (7.53 percent), by subtracting 3.5 percent from that average, and by rounding the resultant percent (4.03) upward to the nearest one-eighth of 1 percent (4.125).

ERNEST L. BOYER,
Commissioner of Education.

OCTOBER 16, 1978
[FR Doc. 78-29918 Filed 10-23-78; 8:45 am]

[4110-12-M]

Office of the Secretary

**PRESIDENT'S COMMITTEE ON MENTAL
RETARDATION**

Meeting

The President's Committee on Mental Retardation was established by Executive order to provide advice and assistance in the area of mental retardation to the President including evaluation of the adequacy of the national effort to combat mental retardation; coordination of activities of Federal agencies; provision of adequate liaison between foundations and other private organizations; and development of information designed for dissemination to the general public.

The Committee will meet on November 17-18, 1978, 9 a.m. to 5 p.m., in meeting rooms C and H of the Beacon Complex, Boston-Sheraton Hotel, Prudential Center, Boston, Mass. At the meeting, the Committee will discuss full citizenship rights, humane service systems, trends in residential facilities, public awareness, and prevention of mental retardation.

These meetings are open to the public.

Further information on the President's Committee on Mental Retardation may be obtained from Mr. Fred J. Krause, Executive Director, President's Committee on Mental Retardation, Room 2614, Rayburn Office Building No. 3, Seventh and D Streets SW., Washington, D.C. 20201, telephone 202-245-7634.

Dated: October 17, 1978.

FRED J. KRAUSE,
*Executive Director, President's
Committee on Mental Retardation.*

[FR Doc. 78-29883 Filed 10-23-78; 8:45 am]

[8230-01-M]

**INTERNATIONAL COMMUNICATION
AGENCY**

**ADVISORY PANEL ON FOLK, JAZZ, AND POP-
ULAR MUSIC OF THE ADVISORY COMMITTEE
ON MUSIC**

Meeting

Pursuant to Pub. L. 92-463, the Federal Advisory Committee Act, notice is hereby given that the Advisory Panel on Folk, Jazz, and Popular Music has scheduled a meeting to be held Wednesday, November 29, 1978 in room 660 at Pennsylvania Avenue NW., Washington, D.C. The meeting hours will be from 9:30 a.m. to 12:30 p.m. and from 2 p.m. to 5:30 p.m.

The sessions will be open to the public. The agenda is:

(1) Review of program policies and guidelines;

(2) Review of recent overseas tours in the music field sponsored by the International Communication Agency;

(3) Evaluation of tapes and records of professional and academic jazz, folk, rock, and popular music individuals and groups which wish to be considered as candidates for grants, sponsorship, or other assistance in connection with overseas tours.

Members of the public in attendance who wish to comment on the agenda items may do so, subject to restrictions of time and direction of the Chair.

It is requested that persons wishing to attend this open session advise the Executive Secretary, Beverly Gerstein, by telephone before November 27; the telephone number is area code 202-724-1927.

The meeting room has a seating capacity of 40, so the public will be admitted on a first-come, first-served basis.

JANE S. GRAYMES,
*Management Analyst, Manage-
ment Analysis/Regulations
Staff, Associate Directorate for
Management, International
Communication Agency.*

[FR Doc. 78-29971 Filed 10-23-78; 8:45 am]

[8230-01-M]

**ADVISORY PANEL ON MUSIC OF THE
ADVISORY COMMITTEE ON MUSIC**

Meeting

Pursuant to Pub. L. 92-462, the Federal Advisory Committee Act, notice is hereby given that the Advisory Panel on Music has scheduled a meeting to be held Monday, November 27, 1978, in room 660 at 1776 Pennsylvania Avenue NW., Washington, D.C. The meeting hours will be from 9:30 a.m. to 12:30 p.m. and from 2 p.m. to 5:30 p.m.

The sessions will be open to the public. The agenda is:

(1) Review of program policies and guidelines;

(2) Review of recent overseas tours in the music field sponsored by the International Communication Agency;

(3) Evaluation of tapes and records of professional music individuals and groups which wish to be considered as candidates for grants, sponsorship, or other assistance in connection with overseas tours.

Members of the public in attendance who wish to comment on the agenda items may do so, subject to restrictions of time and direction of the Chair.

It is requested that persons wishing to attend this open session advise the Executive Secretary, Beverly Gerstein, by telephone before November 24; the telephone number is area code 202-724-1927.

The meeting room has a seating capacity of 40, so the public will be admitted on a first-come, first-served basis.

JANE S. GRAYMES,
*Management Analyst, Manage-
ment Analysis/Regulations
Staff, Associate Directorate for
Management, International
Communication Agency.*

[FR Doc. 78-29972 Filed 10-23-78; 8:45 am]

[4310-84-M]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Group 627]

CALIFORNIA

Filing of Plats of Survey

OCTOBER 13, 1978.

1. Plats of survey of the lands described below, accepted August 2, 1978, will be officially filed in the California State Office, Sacramento, Calif., effective at 10 a.m. on November 28, 1978:

SAN BERNARDINO MERIDIAN, CALIF.

T. 2 S., R. 10 E.,
T. 2 S., R. 11 E.,
T. 2 S., R. 12 E.,
T. 2 S., R. 13 E.,
T. 3 S., R. 13 E.,
T. 3 S., R. 14 E.,
T. 1 S., R. 15 E.,
T. 2 S., R. 15 E.,
T. 3 S., R. 15 E.,
T. 2 S., R. 16 E.,
T. 3 S., R. 16 E.

2. Each of the above plats represent a dependent resurvey and survey of a portion of the boundaries and subdivisional lines in each township.

3. These surveys were executed at the request of the National Park Service.

HERMAN J. LYTTEGE,
Chief, Branch of
Records and Data Management.

[FR Doc. 78-29902 Filed 10-23-78; 8:45 am]

[4310-84-M]

[Colorado 25122 e, f]

NORTHWEST PIPELINE CORP.

R/W Application for Pipeline

OCTOBER 17, 1978.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (41 Stat. 449), as amended (30 U.S.C. 185), Northwest Pipeline Corp., P.O. Box 1526, Salt Lake City, Utah 84110, has applied for a right-of-way for a 4½-inch (o.d.), natural gas pipeline for the Foundation Creek Gathering System approximately 4.338 miles long, across the following public lands:

SIXTH PRINCIPAL MERIDIAN, RIO BLANCO COUNTY, COLO.

T. 4S., R. 104 W.,
Sec. 13, SW¼NE¼;
Sec. 14, NW¼, W½NE¼, NW¼SE¼;
Sec. 15, N½, NE¼SW¼;
Sec. 16, NE¼NE¼;
Sec. 17, NW¼SW¼, S½NW¼, NE¼NW¼, NW¼NE¼;
Sec. 18, NE¼SE¼;
Sec. 22, N½NE¼;
Sec. 23, W½NE¼;
Sec. 24, W½NW¼, NW¼NE¼.
T. 3S., R. 103 W.,
Sec. 19, NW¼SW¼.
T. 4S., R. 102 W.,
Sec. 25, NE¼NE¼NW¼.

The proposed gathering system will enable the applicant to expand its gas gathering ability and thereby meet the demands of the applicants' customers.

The purposes for this notice are: (1) To inform the public that the Bureau of Land Management is proceeding with the preparation of environmental and other analytic reports, necessary for determining whether or not the application should be approved and if approved, under what terms and conditions; (2) to give all interested parties the opportunity to comment on the application; and (3) to allow any party asserting a claim to the lands involved or having bona fide objections to the proposed natural gas gathering system to file its claim or objections in the Colorado State Office. Any party so filing must include evidence that a copy thereof has been served on Northwest Pipeline Corp.

Any comment, claim, or objections must be filed with the Chief, Branch of Adjudication, Bureau of Land Management, Colorado State Office, Room

700, Colorado State Bank Building, 1600 Broadway, Denver, Colo. 80202, as promptly as possible after publication of this notice.

ANDREW W. HEARD, JR.,
Leader, Craig Team,
Branch of Adjudication.

[FR Doc. 78-29903 Filed 10-23-78; 8:45 am]

[4310-84-M]

[Colorado 24402 M]

NORTHWEST PIPELINE CORP.

R/W Application for Pipeline

OCTOBER 17, 1978.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (41 Stat. 449), as amended (30 U.S.C. 185), Northwest Pipeline Corp., P.O. Box 1526, Salt Lake City, Utah 84110, has applied for a right-of-way for a 4½-inch-o.d. natural gas pipeline for the East Douglas Creek Gathering System approximately 0.446 mile long, across the following public lands:

SIXTH PRINCIPAL MERIDIAN, RIO BLANCO COUNTY, COLORADO

T. 3 S., R. 100 W.
Sec. 20: SE¼NW¼, NE¼SW¼

The proposed gathering system will enable the applicant to expand its gas gathering ability and thereby meet the demands of the applicants' customers.

The purposes for this notice are: (1) To inform the public that the Bureau of Land Management is proceeding with the preparation of environmental and other analytic reports necessary for determining whether or not the application should be approved and if approved, under what terms and conditions; (2) to give all interested parties the opportunity to comment on the application; and (3) to allow any party asserting a claim to the lands involved or having bona fide objections to the proposed natural gas gathering system to file its claim or objections in the Colorado State office. Any party so filing must include evidence that a copy thereof has been served on Northwest Pipeline Corp.

Any comment, claim, or objections must be filed with the Chief, Branch of Adjudication, Bureau of Land Management, Colorado State Office, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, Colo. 80202, as promptly as possible after publication of this notice.

ANDREW W. HEARD, JR.,
Leader, Craig Team,
Branch of Adjudication.

[FR Doc. 78-29904 Filed 10-23-78; 8:45 am]

[4310-84-M]

[Colorado 23734 P]

NORTHWEST PIPELINE CORP.

R/W Application for Pipeline

OCTOBER 17, 1978.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (41 Stat. 449), as amended (30 U.S.C. 185), Northwest Pipeline Corp., P.O. Box 1526, Salt Lake City, Utah 84110, has applied for a right-of-way for a 4½-inch-o.d. natural gas pipeline for the Rocky Mountain Natural Gas Gathering System, approximately 7.623 miles long, across the following public lands:

SIXTH PRINCIPAL MERIDIAN, RIO BLANCO COUNTY, COLORADO

T. 1 S., R. 101 W.,
Sec. 18: SW¼NE¼, S½NW¼, NW¼SW¼, S¼SW¼
Sec. 19: N½NW¼
T. 1 S., R. 102 W.,
Sec. 11: S½NE¼, SE¼NW¼, E½SW¼, NW¼SE¼
Sec. 14: N½NW¼, SW¼NW¼, NW¼SW¼
Sec. 15: S½N¼N¼, 2S¼
Sec. 16: SE¼NE¼, E½SE¼

The proposed gathering system will enable the applicant to expand its gas gathering ability and thereby meet the demands of the applicants' customers.

The purposes for this notice are: (1) To inform the public that the Bureau of Land Management is proceeding with the preparation of environmental and other analytic reports, necessary for determining whether or not the application should be approved and if approved, under what terms and conditions; (2) to give all interested parties the opportunity to comment on the application; and (3) to allow any party asserting a claim to the lands involved or having bona fide objections to the proposed natural gas gathering system, to file its claim or objections in the Colorado State office. Any party so filing must include evidence that a copy thereof has been served on Northwest Pipeline Corp.

Any comment, claim, or objections must be filed with the Chief, Branch of Adjudication, Bureau of Land Management, Colorado State Office, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, Colo. 80202, as promptly as possible after publication of this notice.

ANDREW W. HEARD, JR.,
Leader, Craig Team,
Branch of Adjudication.

[FR Doc. 78-29905 Filed 10-23-78; 8:45 am]

[4310-03-M]

Heritage Conservation and Recreation Service

NATIONAL REGISTER OF HISTORIC PLACES

Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the Heritage Conservation and Recreation Service before October 13, 1978. Pursuant to section 60.13(a) of 36 CFR Part 60, published in final form on January 9, 1976, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the Keeper of the National Register, Office of Archeology and Historic Preservation, U.S. Department of the Interior, Washington, D.C. 20240. Written comments or a request for additional time to prepare comments should be submitted by November 3, 1978.

RONALD M. GREENBERG,
Acting Keeper of
the National Register.

ALABAMA

Clay County

Ashland, *Black, Hugo, House*, AL 77 (proposed move)

Madison County

Huntsville, *Leech-Hauer House*, 502 Governors Dr.

Mobile County

Mobile, *Lower Dauphin Street Historic District*, 171-614 Dauphin St.

ARKANSAS

Boone County

Harrison, *Eagle Heights School*, Washington and N. Robinson Sts.

Carroll County

Eureka Springs, *Eureka Springs Historic District* (boundary increase)

Clay County

Corning, *Oliver House*, 203 W. Front St.

Crawford County

Van Buren, *Dunham, Joseph Starr, House*, 4th and Drennen Sts. (proposed move)

Hol Spring County

Malvern, *Boyle House*, 221 E. 3rd St.

Howard County

Mineral Springs, *Graysonia, Nashville and Ashdown Depot*

Jefferson County

Pine Bluff, *Baim-Buffalo Hatters Building and Havis-Rosenzweig Building*, 219 Main St. and 231 Main St.

Pine Bluff, *Pine Bluff Historic District*, roughly bounded by W. 6th Ave., Ash, Barraque, and Pine Sts.

NOTICES

Lonoke County

Scott vicinity, *Marlsgate (William P. Dortch House)* NE of Scott off AR 130 at Bearskin Lake (boundary increase)

Miller County

Texarkana, *Shotgun House*, 19th and Ash Sts.

Monroe County

Clarendon, *Ellas-McKay House*, 404 N. Walls St.

Newton County

Parthenon, *Newton County Academy*, Gum Springs Rd.

Prairie County

Des Arc, *Bethell, Bedford Brown, House*, 2nd and Curran Sts.

Pulaski County

Little Rock, *McDonnell House*, 1312 W. 2nd St.

North Little Rock, *Baker House*, 109 5th St.
North Little Rock, *Faucette Building*, 4th and Main Sts.

Randolph County

Pocahontas, *Bates House*, off U.S. 67

Sebastian County

Fort Smith, *West Garrison Avenue Historic District*, 100-525 Garrison Ave.

White County

Bradford, *Morris House*, Rte. 1

CONNECTICUT

Hartford, *Asylum Hill Historic District*, roughly bounded by RR. tracks, North Branch of Park River, Homestead Ave., and Walnut St.

ILLINOIS

Champaign County

Urbana, *Griggs, Clark R., House*, 505 W. Main St.

DeKalb County

Sycamore, *Chicago and Northwestern Depot*, Sacramento and DeKalb Sts.
Sycamore, *Elmwood Cemetery Gates*, S. Cross and Charles Sts.

Fullton County

Table Grove, *Table Grove Community Church*, N. Broadway and W. Liberty Sts.

Kane County

St. Charles, *Hotel Baker*, 100 W. Main St.

St. Clair County

Lebanon vicinity, *Building No. 7*, NW of Lebanon on Scott Air Force Base

Winnebago County

Pecatonica, *Roberts, William H., House*, 523 Main St.

INDIANA

Hamilton County

Nobelsville, *Stone, Judge Earl S., House*, 107 S. 8th St.

IOWA

Madison County

Cumming vicinity, *St. Patrick's Church*, NW of Cumming

LOUISIANA

Rapides Parish

Alexandria, *Commercial Building*, 3rd and Johnston Sts.

MASSACHUSETTS

Essex County

Andover, *Shawsheen Village Historic District*, S of I 495 and MA 28 interchange S to Shawsheen River
Methuen, *Methuen Memorial Music Hall*, 192 Broadway

Middlesex County

Concord, *Damon Mill*, 9 Pond Lane
Lowell, *Merrimack-Middle Streets Historic District*, Merrimack, Middle, Prescott, and Central Sts.

Plymouth County

Duxbury, *Alden, John, House*, 105 Alden St.

MINNESOTA

Anoka County

Anoka, *Jackson Hotel*, 214 Jackson St.

MONTANA

Yellowstone County

Billings, *Billings Historic District*, roughly bounded by N. 23rd and N. 25th Sts., 1st and Montana Aves.

NEW MEXICO

Valencia County

Adelino, *Baca, Miguel E., House*, NM 47

NEW YORK

Chautauqua County

Bemus Point, *Bemus Point Site*, off NY 17

New York County

New York, *Greenwich Village Historic District*, roughly bounded by W. 13th St., St. Luke's Pl., University Pl. and Washington St.

Onondaga County

Syracuse, *St. Paul's Cathedral and Parish House*, 310 Montgomery St.

Westchester County

Ossining, *Rohr, George, Saloon and Boarding House*, 1-3 Highland Ave.

NORTH CAROLINA

Franklin County

Louisburg, *Main Building*, Louisburg College campus

Jackson County

Cullowhee, *Joyner Building*, Western Carolina University campus

Orange County

Mebane vicinity, *Paisley-Rice Log House*, N of Mebane

RHODE ISLAND*Kent County*

Warwick, *Green, Caleb, House*, 15 Center-ville Rd.
West Warwick vicinity, *Arkwright Bridge*, NW of West Warwick over Pawtuxet River (also in Providence County)

Newport County

Portsmouth, *Portsmouth Friends Meeting-house, Parsonage and Cemetery*, 11 Middle Rd. and 2232 E. Main Rd.

Providence County

North Providence, *Smith, John, House*, 109 Smithfield Rd.
Saylesville, *Saylesville Meetinghouse*, Smithfield Ave.

Washington County

Exeter, *Lillibridge, Simon, Farm*, Summit Rd.

SOUTH CAROLINA*Anderson County*

Anderson, *Anderson Downtown Historic District*, Main St. between Tribble and Market Sts.

Marion County

Marion, *Marion Historic District*, proposed boundary increased to include additional properties on N. Wilcox and Main Sts.

Newberry County

Pomaria vicinity, *St. John's Lutheran Church*, SE of Pomaria

UTAH*Salt Lake County*

Salt Lake City, *Lyne, Waller C., House*, 1135 E. S. Temple St.

Weber County

Ogden, *Scrowcroft Warehouse*, 23rd St.

WASHINGTON*Franklin County*

Walker vicinity, *Burr Cave*, N of Walker

[FR Doc. 78-29562 Filed 10-23-78; 8:45 am]

[4310-10-M]

Office of the Secretary**PRIVACY ACT OF 1974****Systems Notice**

Notice is hereby given that the Department of the Interior has under consideration a system notice describing a record system which will be maintained and subject to the Privacy Act of 1974, 5 U.S.C. 552a. The following system is now being considered:

PERSONNEL CORRESPONDENCE FILES—
INTERIOR, OFFICE OF THE SECRETARY,
OS/99

The System notice is published below.

Comments on the notice may be submitted to the Departmental Privacy Act Office, Office of Administrative and Management Policy, U.S. Department of the Interior, 18th and C Streets NW., Washington, D.C. 20240. All comments received on or before November 20, 1978, will be considered. Copies of any comments may be inspected in Room 5316 at the above address.

RICHARD R. HITE,
Deputy Assistant Secretary
of the Interior.

OCTOBER 17, 1978.

System name

Personnel Correspondence Files—Interior, Office of the Secretary; OS/99.

System location

Office of the Secretary, Office of Congressional and Legislative Affairs, Division of Congressional Services, U.S. Department of the Interior, 18th and C Streets NW., Washington, D.C. 20240.

Categories of individuals covered by the system

Those who have corresponded directly or indirectly through Members of Congress with the Office of Congressional and Legislative Affairs concerning personnel and employment matters within the Department.

Categories of records in the system

Correspondence files in alphabetical order by individuals names which may contain applications, résumés, or other personal materials in support of their reason of inquiry.

Authority for maintenance of the system

5 U.S.C. 301; 44 U.S.C. 3101; 43 U.S.C. 1457; and Reorganization Plan 3 of 1950.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses

The primary use is to maintain a temporary record of the personal interest of the subject of the correspondence. Usually the correspondence is advising the constituent of the status of his or her application for a position with the Department, or advising of the current availability of opportunities, or of the procedures the applicant must undergo in order to be eligible for Federal work within the Department. These records are maintained alphabetically by calendar year basis and are destroyed after the yearly file has become 2 years old. The applications submitted may be provided at the subject's wishes to other personnel authorities within the Department for current consideration should there be possible opportunities

or vacancies of possible interest to the applicant.

Disclosures outside the Department of the Interior may be made (1) to a Federal agency so that the agency may respond to an inquiry from the named individual, (2) to the U.S. Department of Justice when related to litigation or anticipated litigation, (3) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigation or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license, and (4) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

Records management policies and practices**Storage**

Records are stored in metal file cabinets in locked rooms.

Retrievability

Filing system maintained on yearly basis in alphabetical name order.

Retention and disposal

Filing system maintained on calendar year basis and the 2d yearly file is destroyed December 31 at the end of the 2d year.

System managers and address

Congressional Liaison Officer, Office of the Secretary, Office of Congressional and Legislative Affairs, 18th and C Streets NW., Washington, D.C. 20240.

Notification procedure

Same as above. See 43 CFR 2.60 for submission requirements.

Record access procedures

Same as above. See 43 CFR 2.63 for submission requirements.

Contesting record procedures

Same as above. See 43 CFR 2.71 for submission requirements.

Record source categories

Correspondence or documents signed within the Office of the Secretary, Office of Congressional and Legislative Affairs, or presented to the Office in person by constituents and this material became a record of the interview or visit, etc.

[FR Doc. 78-29983 Filed 10-23-78; 8:45 am]

[4510-30-M]

DEPARTMENT OF LABOR

Employment and Training Administration

EMPLOYMENT TRANSFER AND BUSINESS COMPETITION DETERMINATIONS UNDER THE RURAL DEVELOPMENT ACT

Applications

The organizations listed in the attachment have applied to the Secretary of Agriculture for financial assistance in the form of grants, loans, or loan guarantees in order to establish or improve facilities at the locations listed for the purposes given in the attached list. The financial assistance would be authorized by the Consolidated Farm and Rural Development Act, as amended, 7 U.S.C. 1924(b), 1932, or 1942(b).

The Act requires the Secretary of Labor to determine whether such Federal assistance is calculated to or is likely to result in the transfer from one area to another of any employment or business activity provided by operations of the applicant. It is permissible to assist the establishment of a new branch, affiliate or subsidiary, only if this will not result in increased unemployment in the place of present operations and there is no reason to believe the new facility is being established with the intention of closing down an operating facility.

The Act also prohibits such assistance if the Secretary of Labor determines that it is calculated to or is likely to result in an increase in the production of goods, materials, or commodities, or the availability of services or facilities in the area, when there is not sufficient demand for such goods, materials, commodities, services, or facilities to employ the efficient capacity of existing competitive commercial or industrial enterprises, unless such financial or other assistance will not have an adverse effect upon existing competitive enterprises in the area.

The Secretary of Labor's review and certification procedures are set forth at 29 CFR Part 75. In determining whether the applications should be approved or denied, the Secretary will take into consideration the following factors:

1. The overall employment and unemployment situation in the local area in which the proposed facility will be located.
2. Employment trends in the same industry in the local area.
3. The potential effect of the new facility upon the local labor market, with particular emphasis upon its potential impact upon competitive enterprises in the same area.
4. The competitive effect upon other facilities in the same industry located

in other areas (where such competition is a factor).

5. In the case of applications involving the establishment of branch plants or facilities, the potential effect of such new facilities on other existing plants or facilities operated by the applicant.

All persons wishing to bring to the attention of the Secretary of Labor any information pertinent to the determinations which must be made regarding these applications are invited to submit such information in writing within 2 weeks of publication of this notice to:

Deputy Assistant Secretary for Employment and Training, 601 D Street NW., Washington, D.C. 20213.

Signed at Washington, D.C. this 23d day of October 1978.

ERNEST G. GREEN,
Assistant Secretary for
Employment and Training.

APPLICATIONS RECEIVED DURING THE WEEK ENDING OCTOBER 20, 1978

NAME OF APPLICANT, LOCATION OF ENTERPRISE, AND PRINCIPAL PRODUCT OR ACTIVITY

Brown Mackie College Salina, Kans., college.
National Health Corp., Murfreesboro, Tenn., nursing home service.

[FR Doc. 78-29880 Filed 10-23-78; 8:45 am]

[4510-43-M]

Mine Safety and Health Administration

[Docket No. M-78-93-C]

BRAZTAH CORP.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that Braztah Corp., P.O. Box 599, Helper, Utah 84526, and Local 8303 the United Mine Workers of America, District 22, 23 South Carbon Avenue, Price, Utah 84501, have filed a petition to modify the application of 30 CFR 18.5 (trailing cables), to its No. 3 Mine, located in Carbon County, Utah, in accordance with section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

The substance of petitioners' statement is as follows:

- (1) There is no history of trailing cable failures with the present electrical system.
- (2) The mine operator has an electrical program and testing equipment which exceeds the standard testing procedures on equipment. The program has been in use at the mine for three years and has been determined to improve electrical safety.
- (3) The position of pillar blocks in the above mine in conjunction with

the restricted lengths for trailing cables has meant moving the power source every hundred feet of advance. In some instances, this has necessitated passing a high voltage power cable over equipment travelways or installing high-voltage power cables in the return airways, making the power source susceptible to caving or equipment damage.

(4) For the reasons set forth above, the petitioners request that the maximum allowable portable cable length for the above mine be exceeded 50 percent for number four (4) and six (6) cables receiving 950 and 440 volts of power.

REQUEST FOR COMMENTS

Persons interested in this petition may furnish written comments on or before November 24, 1978. Comments must be filed with the Office of Standard, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Va. 22203. Copies of the petition are available for inspection at that address.

Dated: October 13, 1978.

ROBERT B. LAGATHER,
Assistant Secretary for
Mine Safety and Health.

[FR Doc. 78-29921 Filed 10-23-78; 8:45 am]

[4510-43-M]

[Docket No. M-78-50-M]

CITIES SERVICE CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that Cities Service Co., P.O. Box 100, Miami, Ariz. 85539, has filed a petition to modify the application of 30 CFR 57.19-18, (overtravel by-pass switch) to its Old Dominion Shaft, located in Miami, Ariz., in accordance with section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

The substance of Petitioner's statement is as follows:

- (1) The hoist in question is used once a week for pump inspection only.
- (2) The installed switch system is not spring loaded. It de-energizes the hoist motor when overtravel limits are exceeded. There are two (2) independent upper limit switches. Should one fail, the other will de-energize the entire hoisting circuit.
- (3) Petitioner contends the above system provides greater safety than strict adherence to the standard for the following reasons:
 - (a) Certain circumstances require the hoistman to have one hand on the power control and one hand on the brake.
 - (b) Introduction of an operation requiring the depression of a spring

loaded switch would require a third hand, consequently a second operator. Furthermore, both hands are required at time to set the brake in a locked position.

REQUEST FOR COMMENTS

Persons interested in this petition may furnish written comments on or before November 24, 1978. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Va. 22203. Copies of the petition are available for inspection at that address.

Dated: October 17, 1978

ROBERT B. LAGATHER,
*Assistant Secretary for
Mine Safety and Health.*

[FR Doc. 78-29922 Filed 10-23-78; 8:45 am]

[4510-43-M]

[Docket No. M-78-90-C]

EASTOVER MINING CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that Eastover Mining Co., Brookside, Ky. 40801, has filed petition to modify the application of 30 CFR 75.1719 (illumination), to its Highsplint mine in accordance with section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

The substance of Petitioner's statement is as follows:

- (1) The petitioner requests that face lighting systems not be required on all face equipment in the above mine because they diminish the safety of miners for the reasons set forth below.
- (2) Failure of the installed lighting systems while the equipment is in operation will cause an abrupt change in the light intensity which could confuse the equipment operator.
- (3) Failures of the lighting system will disrupt crew performance, cause undue hazards to team performance and interfere with corrections of hazards.
- (4) Heat generated from the lights creates an undesirable environment at the work face resulting in undue stress and fatigue for the miner.
- (5) The glare from equipment lights has caused the equipment operator headaches and nausea and resulted in complaints and grievances.
- (6) When a miner enters or exits a lighted work place, a hazard is created while his eyes adjust to new light levels.
- (7) Steam created by the contact of spray water from dust allaying with heat generated by the lights hampers the miner's vision.

REQUEST FOR COMMENTS

Persons interested in this petition may furnish written comments on or before November 24, 1978. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Va. 22203. Copies of the petition are available for inspection at that address.

Dated: October 13, 1978.

ROBERT B. LAGATHER,
*Assistant Secretary for
Mine Safety and Health.*

[FR Doc. 78-29923 Filed 10-23-78; 8:45 am]

[4510-43-M]

[Docket No. M-78-107-C]

EASTOVER MINING CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that Eastover Mining Co., Brookside, Ky. 40801, has filed a petition to modify the application of 30 CFR 75.1719 (illumination), to its Arjay mine in accordance with section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

The substance of Petitioner's statement is as follows:

- (1) The petitioner requests that face lighting systems not be required on all face equipment in the above mine because they diminish the safety of miners for the reasons set forth below.
- (2) Failure of the installed lighting systems while the equipment is in operation will cause an abrupt change in the light intensity which could confuse the equipment operator.
- (3) Failures of the lighting system will disrupt crew performance, cause undue hazards to team performance and interfere with corrections of hazards.
- (4) Heat generated from the lights creates an undesirable environment at the work face resulting in undue stress and fatigue for the miner.
- (5) The glare from equipment lights has caused the equipment operator headaches and nausea and resulted in complaints and grievances.
- (6) When a miner enters or exits a lighted work place, a hazard is created while his eyes adjust to new light levels.
- (7) Steam created by the contact of spray water from dust allaying with heat generated by the lights hampers the miner's vision.

REQUEST FOR COMMENTS

Persons interested in this petition may furnish written comments on or before November 24, 1978. Comments must be filed with the Office of Stand-

ards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Va. 22203. Copies of the petition are available for inspection at that address.

Dated: October 13, 1978.

ROBERT B. LAGATHER,
*Assistant Secretary for
Mine Safety and Health.*

[FR Doc. 78-29924 Filed 10-23-78; 8:45 am]

[4510-43-M]

[Docket No. M-78-105-C]

GATEWAY COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that Gateway Coal Co., 900 Oliver Building, Pittsburgh, Pa. 15222, has filed a petition to modify the application of 30 CFR 75.1105 (transformer housing), to its Gateway Mine, located in Greene County, Pa., in accordance with section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

The substance of Petitioner's statement is as follows:

- (1) Flight 1 and Flight 2 control rooms (transformer stations) are located at a great distance (6,800 feet and 3,000 feet respectively) from return air.
- (2) The only personnel exposed to the possible hazard against which the mandatory standard is designed to protect are Mine Examiners, Pumpers, Beltmen and Belt Mechanics. These personnel have ready access to two slopes for exit from the mine.
- (3) The air from the transformer areas doesn't enter any active working section.
- (4) The control rooms are of fire-proof construction using steel, concrete and concrete block with a sand < rock top.
- (5) An emergency train (with fire car) is positioned in intake air between the control rooms for which modification is sought.
- (6) In the alternative, the Petitioner proposes to install self-contained dry chemical deluge fire extinguishing systems in the two control rooms and believes that the fire extinguishing system will provide more protection for miners than a vented system because it provides positive fire prevention protection.

REQUEST FOR COMMENTS

Persons interested in this petition may furnish written comments on or before November 24, 1978. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Va.

22203. Copies of the petition are available for inspection at that address.

Dated: October 17, 1978.

ROBERT B. LAGATHER,
Assistant Secretary for
Mine Safety and Health.

[FR Doc. 78-29925 Filed 10-23-78; 8:45 am]

[4510-43-M]

[Docket No. M-78-38-M]

THE HITCHCOCK CORP.

Petition for Modification of Application of
Mandatory Safety Standard

Notice is hereby given that Hitchcock Corp., P.O. Drawer 459, Murphy, N.C. 28906, has filed a petition to modify the application of 30 CFR 57.11-50 (escapeways), to its Nancy Jordan No. 5 Mine, located in Murphy, N.C., in accordance with section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

The substance of Petitioner's statement is as follows:

(1) Geological conditions in the vicinity of the mine are not favorable for a second escapeway. Due to the small nature of the ore body and the physical presence of the L&N Railroad which passes over the ore body, a second shaft would have to pass through porous marble formations containing significant amounts of water. Shaft construction under similar geologic conditions has proven very hazardous.

(2) Since the mine was developed with the idea of using one shaft, the entire shaft was constructed with steel and concrete to be completely fireproof. Fire doors on all three levels of the mine can effectively seal the shaft area from the rest of the mine.

(3) A manway independent of the main shaft exists between the three levels providing access to the entire mine outside the main shaft area.

(4) No point in the mine is over approximately a 250 feet radius from the main shaft.

(5) The petitioner believes that application of the standard will result in a diminution of safety to the miners affected and proposes that one shaft or escapeway and two refuge chambers be acceptable.

REQUEST FOR COMMENTS

Persons interested in this petition may furnish written comments on or before November 24, 1978. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Va. 22203. Copies of the petition are available for inspection at that address.

Dated: October 13, 1978.

ROBERT B. LAGATHER,
Assistant Secretary, for
Mine Safety and Health.

[FR Doc. 78-29926 Filed 10-23-78; 8:45 am]

[4510-43-M]

[Docket No. M-78-86-C]

K.L.M. COAL CO.

Petition for Modification of Application of
Mandatory Safety Standard

Notice is hereby given that K.L.M. Coal Co., Trevorton, Pa. has filed a petition to modify the application of 30 CFR 75.301 (air flow), to its K.L.M. Mine, in accordance with section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

The substance of Petitioner's statement is as follows:

(1) Air sample analysis reveals that harmful quantities of methane are nonexistent in the mine.

(2) There is no history of ignition, explosion or fire in the mine.

(3) There is no history of harmful quantities of carbon dioxide and other noxious or harmful gases in the mine.

(4) Mine dust sampling programs have revealed extremely low concentrations of respirable dust.

(5) Extremely high velocities of air in small cross sectional areas of airways and manways in friable anthracite veins present a hazard of dangerous flying objects.

(6) High velocities and large quantities of air cause extremely uncomfortable damp and cold conditions in the already uncomfortable wet mine.

(7) Difficulty in keeping miners on the job and securing additional mine help is due primarily to the above conditions.

(8) For these reasons Petitioner requests that for the above mine the minimum quantity of air reaching each working face be 1,500 cubic feet a minute, that the minimum quantity of air reaching the last crosscut in any pair of developing entries be 5,000 cubic feet a minute, and that the minimum quantity of air reaching the intake end of the pillar line be 5,000 cubic feet a minute, and/or whatever additional quantity of air that may be required in any of these areas to maintain a safe and healthful mine atmosphere.

REQUEST FOR COMMENTS

Persons interested in this petition may furnish written comments on or before November 24, 1978. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Va.

22203. Copies of the petition are available for inspection at that address.

Dated: October 17, 1978.

ROBERT B. LAGATHER,
Assistant Secretary for
Mine Safety and Health.

[FR Doc. 78-29927 Filed 10-23-78; 8:45 am]

[4510-43-M]

[Docket No. M-78-88-C]

MORRIS COAL, INC.

Petition for Modification of Application of
Mandatory Safety Standard

Notice is hereby given that Morris Coal, Inc., 1000 Lincoln Square, Marion, Ill. 62969, has filed a petition to modify the application of 30 CFR 75.1710 (canopies), to its No. 5 Mine, located in Marion, Ill., in accordance with section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

The substance of Petitioner's statement is as follows:

(1) The average mining height of the No. 5 Mine varies between 47 and 52 inches. The minimum mining height on a particular section in the mine is below the average mining height.

(2) Petitioner is unable to operate the electric face equipment in its No. 5 Mine with canopies without diminishing safety in the mine. While the specific problems vary depending upon the particular piece of equipment involved, the problems experienced can be generally categorized for all equipment as follows:

(a) Diminished safety resulting from impaired vision. This includes inability to see across the machine and in some cases to the front and rear of the machine; inability to see obstructions; inability to see personnel or other equipment moving in the area; and other dangers created by poor visibility.

(b) Diminished safety resulting from decreased comfort of the operator. This includes the dangers resulting from the increased fatigue and discomfort caused by canopies, which may in turn cause carelessness, frustration, inattention, or other hazardous actions during operation of the equipment.

(c) Diminished safety resulting from increased operating risks. This includes the risks of the canopy striking the mine roof, roof bolts, line curtains, or other obstructions; the danger of entrapment; and the hazards created by the increased number of pinch points created by the canopy.

(3) For the reasons stated above, Petitioner contends that application of the standard in the above mine will result in a diminution of safety in mining heights above 42 inches and asks relief.

REQUESTS FOR COMMENTS

Persons interested in this petition may furnish written comments on or before November 24, 1978. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Va. 22203. Copies of the petition are available for inspection at that address.

Dated: October 17, 1978.

ROBERT B. LAGATHER,
Assistant Secretary for
Mine Safety and Health.

[FR Doc. 78-29928 Filed 10-23-78; 8:45 am]

[4510-43-M]

[Docket No. M-78-98-C]

SHALLY COAL CO.

Petition for Modification of Application of
Mandatory Safety Standard

Notice is hereby given that Shally Coal Co., R.D. 2, Ashland, Pa. 17921, has filed a petition to modify the application of 30 CFR 75.301 (air flow), to its No. 4 Vein Slope Mine, in accordance with section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

The substance of Petitioner's statement is as follows:

(1) Air sample analysis reveals that harmful quantities of methane are nonexistent in the mine.

(2) There is no history of ignition, explosion or fire in the mine.

(3) There is no history of harmful quantities of carbon dioxide and other noxious or harmful gases in the mine.

(4) Mine dust sampling programs have revealed extremely low concentrations of respirable dust.

(5) Extremely high velocities of air in small cross sectional areas of airways and manways in friable anthracite veins present a hazard of dangerous flying objects.

(6) High velocities and large quantities of air cause extremely uncomfortable damp and cold conditions in the already uncomfortable wet mine.

(7) Difficulty in keeping miners on the job and securing additional mine help is due primarily to the above conditions.

(8) For these reasons Petitioner requests that for the above mine the minimum quantity of air reaching each working face be 1,500 cubic feet a minute, that the minimum quantity of air reaching the last crosscut in any pair of developing entries be 5,000 cubic feet a minute, and/or whatever additional quantity of air that may be required in any of these areas to maintain a safe and healthful mine atmosphere.

REQUEST FOR COMMENTS

Persons interested in this petition may furnish written comments on or before November 24, 1978. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Va. 22203. Copies of the petition are available for inspection at that address.

Dated: October 17, 1978.

ROBERT B. LAGATHER,
Assistant Secretary for
Mine Safety and Health.

[FR Doc. 78-29929 Filed 10-23-78; 8:45 am]

[4510-43-M]

[Docket No. M-78-102-C]

T & M COAL CORP.

Petition for Modification of Application of
Mandatory Safety Standard

Notice is hereby given that T & M Coal Corp., Route 1, Baxter, Ky. 40306, has filed a petition to modify the application of 30 CFR 1710-1 (canopies), in its Number 2 Mine, in accordance with section 101(c) of the Federal Mine Safety and Health Act of 1977, Public Law 95-164.

The substance of Petitioner's statement is as follows:

(1) The mine's present roof control would be seriously weakened if cabs are installed on face equipment. Due to the uneven floor of the mine, the dislodgement of roof bolts by canopies is frequent.

(2) The impaired vision caused by a canopy could result in serious injury to the equipment operator or to his fellow workmen.

(3) The equipment operator cannot effectively evaluate his rock due to the obstruction of a canopy or cab.

(4) In a cab the operator must arrange himself in a cramped position which makes it virtually impossible to operate the equipment safely.

(5) Undulating bottom is often encountered in the mine and decreased clearance makes it nearly impossible to operate canopied equipment in the section.

(6) Present technology is inadequate to design a suitable cab for use in low seams.

(7) For these reasons, the petitioner believes that the installation of cabs or canopies would result in a diminution of miner safety and requests to be relieved of these requirements.

REQUEST FOR COMMENTS

Persons interested in this petition may furnish written comments on or before November 24, 1978. Comments must be filed with the Office of Standards, Regulations and Variances, Mine

Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Va. 22203. Copies of the petition are available for inspection at that address.

Dated: October 13, 1978.

ROBERT B. LAGATHER,
Assistant Secretary for
Mine Safety and Health.

[FR Doc. 78-29930 Filed 10-23-78; 8:45 am]

[4510-43-M]

[Docket No. M-78-47-M]

UNION CARBIDE CORP.

Petition for Modification of Application of
Mandatory Safety Standard

Notice is hereby given that Union Carbide Corp., P.O. Box 1029, Grand Junction, Colo. 81501, has filed a petition to modify the application of 30 CFR 57.11-55 (emergency hoisting facility), to Martha Belle Mine, located in Uravan, Colo., Ura Mine, located in Uravan, Colo., Eula Belle, located in Uravan, Colo., and Snowball Mine, located at P.O. Box 97, La Sal, Utah, in accordance with section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

The substance of Petitioner's statement is as follows:

(1) In the alternative to locating an emergency hoist facility at each of the above mines, Petitioner proposes to maintain two portable hoists for this purpose, one located at Petitioner's Uravan, Colo., mine shop and the other used for construction in the Uravan area.

(2) Travel time from Uravan to the affected mines is approximately one hour.

(3) Petitioner is completing installation of refuge stations adjacent to the bottom of those vent holes designated as escapeways served by portable hoists.

(4) Petitioner contends that the portable hoists, in conjunction with the refuge stations, will provide greater safety than a fixed hoist for the following reasons:

(a) A system of two portable hoists provides backup capability not possible with fixed hoists in the event of unforeseen damage.

(b) Portable hoists are in superior condition to fixed hoists. They are not subjected to weather and other natural hazards which could affect their readiness. Their central location allows for maintenance and operation to be handled by workers well familiar with them.

(c) Portable hoists are adaptable to vent holes not normally designated, but capable of being used, as escapeways.

REQUEST FOR COMMENTS

Persons interested in this petition may furnish written comments on or before November 24, 1978. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Va. 22203. Copies of the petition are available for inspection at that address.

Dated: October 17, 1978.

ROBERT B. LAGATHER,
*Assistant Secretary for
Mine Safety and Health.*

[FR Doc. 78-29931 Filed 10-23-78; 8:45 am]

[4510-43-M]

[Docket No. 78-89-C]

UNITED STATES STEEL CORP.

Petition for Modification of Application of
Mandatory Safety Standard

Notice is hereby given that United States Steel Corp., 600 Grant Street, Pittsburgh, Pa. 15230, has filed a petition to modify the application of 30 CFR 75.1700 (oil and gas wells), to its Cumberland Mined, located in Waynesburg, Pa., in accordance with section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

The substance of Petitioner's statement is as follows:

(1) Boreholes of long-abandoned oil and gas wells, including but not limited to those designated by Petitioner as Nos. 76, 101, 102, 108, 111, 114, and 115, penetrate and pass through the coal seam where Petitioner intends to mine.

(2) Oil and gas sands in the area are now nearly depleted, and no appreciable volume of gas comes from petroleum reservoirs.

(3) If Petitioner were required to establish and maintain barriers around the wells in accordance with the standard, the roof control plan of the mine would be adversely affected, and the mine ventilation plan would be unduly complicated.

(4) In the alternative, Petitioner proposes to plug and mine the boreholes according to recommendations of MESA Informational Report 1052, "Cleaning Out, Sealing and Mining Through Wells Penetrating Areas of Active Coal Mines in Northern West Virginia." This alternative method will result in no diminution of the protection afforded miners by the standard.

REQUEST FOR COMMENTS

Persons interested in this petition may furnish written comments on or before November 24, 1978. Comments must be filed with the Office of Standards, Regulations and Variances, Mine

Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Va. 22203. Copies of the petition are available for inspection at that address.

Dated: October 17, 1978.

ROBERT B. LAGATHER,
*Assistant Secretary for
Mine Safety and Health.*

[FR Doc. 78-29932 Filed 10-23-78; 8:45 am]

[4510-43-M]

[Docket No. M-78-96-C]

WESTMORELAND COAL CO.

Petition for Modification of Application of
Mandatory Safety Standard

Notice is hereby given that Westmoreland Coal Co., Quinwood, W. Va. 25981, has filed a petition to modify the application of 30 CFR 75.1710 (canopies) to its Imperial Smokeless Division, in accordance with section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

The substance of Petitioner's statement is as follows:

(1) In parts of the above mine cabs or canopies on electrical face equipment are impractical and could diminish safety because of irregularities on the roof and floor, varying seam heights, and danger of collision with roof supports.

(2) Cabs or canopies impair the operator's field of vision and restrict his movements, resulting in a diminution of his own safety and the safety of other miners working in the area.

(3) Because of the above reasons, Petitioner requests permission to use electric face equipment in seam heights of 56 inches or less without cabs or canopies.

REQUEST FOR COMMENTS

Persons interested in this petition may furnish written comments on or before November 24, 1978. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Va. 22203. Copies of the petition are available for inspection at that address.

Dated: October 17, 1978.

ROBERT B. LAGATHER,
*Assistant Secretary for
Mine Safety and Health.*

[FR Doc. 78-29933 Filed 10-23-78; 8:45 am]

[4510-28-M]

Office of the Secretary

[TA-W-4032]

ALUMINUM CO. OF AMERICA, POINT
COMFORT, TEX.

Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on August 3, 1978, in response to a worker petition received on August 3, 1978, which was filed by the United Steelworkers of America on behalf of workers and former workers producing alumina and chlorine at the Point Comfort works of the Aluminum Co. of America (ALCOA).

The Notice of Investigation was published in the FEDERAL REGISTER on September 1, 1978 (43 FR 39193). No public hearing was requested and none was held.

The petitioning group of workers in this case is covered under certification TA-W-1151, issued on December 30, 1976. Since all workers separated, totally or partially, from the Point Comfort, Tex., operations of the Aluminum Co. of America on or after September 1, 1975 (impact date) and before December 30, 1978 (expiration date of the certification), are covered, a new investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C., this 18th day of October, 1978.

MARVIN M. FOOKS,
*Director, Office of
Trade Adjustment Assistance.*

[FR Doc. 78-29935 Filed 10-23-78; 8:45 am]

[4510-28-M]

[TA-W-3761]

ANCUR TEXTILE PRINTING CORP., EAST
NEWARK, N.J.Notice of Negative Determination Regarding
Eligibility To Apply for Worker Adjustment
Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3761: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on May 24, 1978, in response to a worker petition received on May 22, 1978, which was filed by the Amalgamated Clothing and Textile Workers' Union on behalf of workers and former workers engaged in the screen printing of textiles at the Ancur Textile Printing Corp., East Newark, N.J.

The Notice of Investigation was published in the FEDERAL REGISTER on June 6, 1978. (43 FR 24634-5). No

public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Ancur Textile Printing Corp., its customers (converters), the U.S. Department of Commerce, the U.S. International Trade Commission, the American Textile Manufacturers' Institute, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or subdivision have contributed importantly to the total or partial separation, or threat thereof, and to the absolute decline in sales or production.

The customers of the Ancur Textile Printing Corp. are converters. A survey of the firm's customers representing a majority of sales in 1977 and 1978 revealed that those customers who decreased purchases from Ancur Textile Printing during the period under investigation did not purchase imports of finished fabric. These customers also experienced increased sales of finished fabric.

The ratio of imports of finished fabric to domestic production has been less than 2 percent from 1974 through 1977.

CONCLUSION

After careful review, I determine that all workers of the Ancur Textile Printing Corp., East Newark, N.J., are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974 period.

Signed at Washington, D.C., this 17th day of October 1978.

JAMES F. TAYLOR,

*Director, Office of Management,
Administration and Planning.*

[FR Doc. 78-29936 Filed 10-23-78; 8:45 am]

[4510-28-M]

[TA-W-3803]

CRANE EDMUND CORP., BUTLER, IND.

**Certification Regarding Eligibility To Apply for
Worker Assistance**

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3803: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on June 5, 1978, in response to a worker petition received on May 25, 1978, which was filed by the United Rubber, Cork, Linoleum, and Plastics Workers of America on behalf of workers and former workers producing bicycle pedals, training wheels, and kickstands at the Crane Edmund Corp., Butler, Ind. During the course of the investigation it was established automotive parts were also produced by Crane Edmund.

The Notice of Investigation was published in the FEDERAL REGISTER on June 20, 1978 (43 FR 26498-26499). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Crane Edmund Corp., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met. It is concluded that all of the requirements have been met.

Sales of bicycle parts, primarily pedals, comprised a significant portion of sales by Crane Edmund during 1977 and all of sales in the first quarter of 1978.

Imports of bicycle pedals increased absolutely from 1975 to 1976 and from 1976 to 1977. Imports increased absolutely from January through June 1978 when compared to the like period of 1977.

Several customers of Crane Edmund who were surveyed, including a major customer, indicated that they had reduced purchases of bicycle pedals from Crane Edmund and increased purchases from foreign suppliers from 1976 to 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with bicycle parts produced by the Crane Edmund Corp., Butler, Ind., contributed importantly to the decline in sales and production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers engaged in employment related to the production of bicycle parts of the Crane Edmund Corp., Butler, Ind., who became totally or partially separated from employment on or after May 23, 1977, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 17th day of October, 1978.

JAMES F. TAYLOR,
*Director, Office of Management,
Administration and Planning.*

[FR Doc. 78-29937 Filed 10-23-78; 8:45 am]

[4510-28-M]

[TA-W-3849]

DELAVAL TURBINES, INC., DELROYD DIVISION,
TRENTON, N.J.

**Negative Determination Regarding Eligibility
To Apply for Worker Adjustment Assistance**

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3849: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on June 15, 1978 in response to a worker petition received on June 9, 1978 which was filed by the United Steelworkers of America on behalf of workers and former workers producing worm gears and speed reducers at the Trenton, N.J. plant of the Delroyd Division of Delaval Turbines.

The Notice of Investigation was published in the FEDERAL REGISTER on June 27, 1978 (43 FR 27922). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Delaval Turbines, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by such workers' firm or an appropriate subdivision thereof contributed importantly to such total or partial separation, or threat thereof, and to such decline in sales or production.

The Department conducted a survey of some of the customers of worm gears and speed reducers of the Delroyd Division. Most respondents indicated that they did not purchase imported worm gear sets and speed reducers. Those respondents that indicated that they did purchase imports, increased purchases from the Delroyd Division.

CONCLUSION

After careful review, I determine that all workers of the Trenton, N.J. plant of the Delroyd Division of Delaval Turbines are denied eligibility to apply for trade adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 17th day of October 1978.

JAMES F. TAYLOR,
*Director, Office of Management,
Administration and Planning.*

[FR Doc. 78-29938 Filed 10-23-78; 8:45 am]

[4510-28-M]

[TA-W-3617]

ELIZABETH FASHIONS, HOBOKEN, N.J.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3617: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on May 8, 1978, in response to a worker petition received on April 28, 1978, which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' fake fur coats at Elizabeth Fashions, Hoboken, N.J.

The Notice of Investigation was published in the FEDERAL REGISTER on May 28, 1978 (43 FR 22793). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Elizabeth Fashions, its customers (manufacturers), the U.S. Department of Commerce, the U.S. International Trade Commission, the National Cotton Council of America, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met. The Department's investigation revealed that all of the requirements have been met.

U.S. imports of women's, misses', and children's coats and jackets increased from 2,252 thousand dozen in 1976 to 2,723 thousand dozen in 1977. Imports declined from 590 thousand dozen in the first quarter of 1977 to 572 thousand dozen in the first quarter of 1978. The ratio of imports to domestic production increased from 48.3 percent in 1976 to 54.9 percent in 1977.

The Department conducted a survey of the principal manufacturers for which Elizabeth Fashions worked in

1976 and 1977. Manufacturers accounting for a substantial portion of sales in 1976 and 1977 reduced purchases from the subject firm and increased purchases of imported ladies' fake fur coats in 1977 compared to 1976 and in the first half of 1978 compared to the like period of 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with the ladies' fake fur coats produced at Elizabeth Fashions, Inc., Hoboken, N.J., contributed importantly to the decline in sales and to the separation of workers of that plant. In accordance with the provisions of the Act, I make the following certification:

All workers of Elizabeth Fashions, Inc., Hoboken, N.J., who became totally or partially separated from employment on or after September 24, 1977, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 17th day of October 1978.

JAMES F. TAYLOR,
*Director, Office of Management,
Administration and Planning.*

[FR Doc. 78-29939 Filed 10-23-78; 8:45 am]

[4510-28-M]

[TA-W-3805]

ENSIGN COIL CO., CASCADE, IOWA

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3805: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on June 5, 1978, in response to a worker petition received on May 30, 1978, which was filed on behalf of workers formerly producing transformer coils at the Cascade, Iowa Plant of Ensign Coil Co.

The Notice of Investigation was published in the FEDERAL REGISTER on June 20, 1978 (43 FR 26498). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Ensign Coil Co., the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act

must be met. It is concluded that all of the requirements have been met.

U.S. imports of inductors for electronic applications including coils increased from 82.1 million dollars in 1976 to 111.9 million dollars in 1977. The ratio of imports to domestic production increased from 17.4 percent in 1976 to 22.9 percent in 1977.

The Cascade, Iowa plant of Ensign Coil Co. produced coils which were used in the production of transformers at the company's plants in Chicago, Ill., and Bellvue, Iowa. Company imports of coils from Mexico increased 34.5 percent in 1977 compared to 1976 and increased 5 percent in the first half of 1978 compared to the first half of 1977. These imported coils were used in the production of transformers at the Bellvue, Iowa, plant.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with transformer coils produced by the Cascade, Iowa, plant of Ensign Coil Co. contributed importantly to the decline in sales or production and to the total or partial separation of workers at that plant. In accordance with the provisions of the Act, I make the following certification:

All workers at the Cascade, Iowa, plant of Ensign Coil Co. who became totally or partially separated from employment on or after October 2, 1977, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 17th day of October 1978.

JAMES F. TAYLOR,
*Director, Office of Management,
Administration and Planning.*

[FR Doc. 78-29940 Filed 10-23-78; 8:45 am]

[4510-28-M]

[TA-W-3871; TA-W-3909]

ESCAPADES FASHION INC., VISCOUNT KNIT MILLS, RIDGEFIELD, N.J.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3871 and TA-W-3909: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation of TA-W-3871 was initiated on June 20, 1978, in response to a worker petition received on June 16, 1978, which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing women's

knit sweaters at Escapades Fashion Inc., Ridgefield, N.J.

The Notice of Investigation was published in the FEDERAL REGISTER on June 30, 1978 (43 FR 28580). No public hearing was requested and none was held.

The investigation of TA-W-3909 was initiated on June 26, 1978, in response to a worker petition received on June 22, 1978, which was filed on behalf of workers and former workers producing women's knit fabrics at Viscount Knit Mills, Ridgefield, N.J.

The Notice of Investigation was published in the FEDERAL REGISTER on July 7, 1978 (43 FR 29364). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Escapades Fashion Inc. and Viscount Knit Mills, Escapades' customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met. It is concluded that all of the requirements have been met.

Imports of women's misses' and children's sweaters increased both absolutely and relatively from 1975 to 1976. Imports declined 1 percent from 1976 to 1977 and increased 7 percent in the first 3 months of 1978, compared to the first 3 months of 1977. The ratios of imports to domestic production and consumption declined from 141.9 percent and 58.7 percent, respectively, in 1976 to 140.8 percent and 58.5 percent, respectively in 1977.

A Department survey revealed that retail customers of Escapades Fashion Inc. increased purchases of imported women's sweaters from 1976 to 1977 and in the first 6 months of 1978 compared to the first 6 months of 1977. These customers decreased their purchases from Escapades during the same periods of comparison.

Viscount Knit Mills produced knit fabric as part of the integrated production of knit sweaters at Escapades.

CONCLUSION

After careful review of the facts obtained in the investigation I conclude that increases of imports of articles like or directly competitive with women's knit sweaters produced at Escapades Fashion Inc., Ridgefield, N.J. contributed importantly to the decline in sales or production and to the total or partial separation of workers at Escapades Fashion and Viscount Knit Mills. In accordance with the provisions of the Act, I make the following certification:

All workers of Escapades Fashion Inc., Ridgefield, N.J., who became totally or partially separated from employment on or after January 14, 1978, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

All workers of Viscount Knit Mills, Ridgefield, N.J., who became totally or partially separated from employment on or after June 20, 1977, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 17th day of October 1978.

JAMES F. TAYLOR,
Director, Office of Management,
Administration and Planning.

[FR Doc. 78-29941 Filed 10-23-78; 8:45 am]

[4510-28-M]

[TA-W-3618]

G & S COAT, HOBOKEN, N.J.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3618: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on May 8, 1978, in response to a worker petition received on April 28, 1978, which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' coats at G & S Coat, Hoboken, N.J.

The Notice of Investigation was published in the FEDERAL REGISTER on May 26, 1978 (43 FR 22793). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of G & S Coat, its customers (manufacturers), the U.S. Department of Commerce, the U.S. International Trade Commission, the National Cotton Council of America, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met. The Department's investigation revealed that all of the requirements have been met.

U.S. imports of women's, misses', and children's coats and jackets increased from 2,252 thousand dozen in 1976 to 2,723 thousand dozen in 1977. Imports declined from 590 thousand dozen in the first quarter of 1977 to 572 thousand dozen in the first quarter of 1978. The ratio of imports to domestic production increased from 48.3 percent in 1976 to 54.9 percent in 1977.

The Department conducted a survey of the principal manufacturers for

which G & S Coat worked in 1976 and 1977. Some manufacturers reduced purchases from G & S Coat and increased purchases of imported ladies' coats in 1977 compared to 1976. Manufacturers that accounted for a majority of sales in 1977 reduced purchases of ladies' coats from G & S Coat and increased purchases of imports in the first quarter of 1978 compared to the first quarter of 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports of articles like or directly competitive with the ladies' coats produced at G & S Coat, Hoboken, N.J. contributed importantly to the decline in sales and to the separation of workers of that plant. In accordance with the provisions of the Act, I make the following certification:

All workers of G & S Coat, Hoboken, N.J. who became totally or partially separated from employment on or after November 1, 1977, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 18th day of October 1978.

HARRY J. GILMAN,
Acting Director, Office of
Foreign Economic Research.

[FR Doc. 78-29942 Filed 10-23-78; 8:45 am]

[4510-28-M]

[TA-W-3880]

JOHNSTOWN & STONY CREEK RAILROAD CO., JOHNSTOWN, PA.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3880: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on June 22, 1978, in response to a worker petition received on May 30, 1978, which was filed by the United Steelworkers of America on behalf of all workers and former workers of the Johnstown & Stony Creek Railroad Co. in Johnstown, Pa., who were engaged in the rail transport of commodities.

The Notice of Investigation was published in the FEDERAL REGISTER on June 30, 1978 (43 FR 28579). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Johnstown & Stony Creek Railroad Co.,

United States Steel Corp., and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. It is concluded that all of the criteria have been met.

The Johnstown & Stony Creek Railroad Co. (J. & S.C.) in Johnstown, Pa., is a wholly owned subsidiary of the United States Steel Corp. The railroad operates autonomously as a common carrier subject to the Interstate Commerce Commission's regulations.

A significant percentage of the total freight hauled by J. & S.C. in both 1977 and in the first 7 months of 1978 was hauled for the Johnstown, Pa., plant of the United States Steel Corp. All workers and former workers of the Johnstown, Pa., plant of the United States Steel Corp. who became totally or partially separated from employment on or after October 1, 1977, have previously been certified eligible to apply for adjustment assistance benefits in a determination issued on April 20, 1978 (TA-W-2779). This certification will remain in effect until April 20, 1980, unless terminated by the Secretary of Labor prior to that date.

CONCLUSION

After careful review of the facts, I conclude that increased imports of articles like or directly competitive with the steel products produced at the Johnstown, Pa., plant of the United States Steel Corp. have contributed importantly to the decline in sales and to the total or partial separation of workers of the Johnstown & Stony Creek Railroad Co. in Johnstown, Pa. In accordance with the provisions of the Act, I make the following certification:

All employees of the Johnstown & Stony Creek Railroad Co. in Johnstown, Pa., who became totally or partially separated from employment on or after May 26, 1977, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 17th day of October 1978.

JAMES F. TAYLOR,
*Director, Office of Management,
Administration and Planning.*

[FR Doc. 78-29943 Filed 10-23-78; 8:45 am]

[4510-28-M]

[TA-W-3737]

LEVI STRAUSS & CO., VALDOSTA, GA.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3737: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on May 18, 1978 in response to a worker petition received on May 15, 1978 which was filed by the Amalgamated Clothing & Textile Workers' Union on behalf of workers and former workers producing jeans at the Valdosta, Ga. plant of Levi Strauss and Co.

The notice of investigation was published in the FEDERAL REGISTER on June 13, 1978 (43 FR 25498-99). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from Levi Strauss & Co., its customers, the National Cotton Council of America, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. It is concluded that all of the requirements have been met.

Imports of men's and boys' woven cotton and man-man jeans and dungarees increased from 9 million units in 1975 to 14 million units in 1976 and to 23 million units in 1977. The ratios of imports to domestic production and consumption increased from 5.4 percent and 5.1 percent, respectively, in 1976 to 8.5 percent and 7.8 percent, respectively, in 1977. Imports increased from 6.7 million units in the first 6 months of 1977 to 17.0 million units in the first 6 months of 1978.

Customers who reduced purchases of jeans from Levi Strauss were surveyed. The survey revealed that customers increased purchases of imported jeans in the first 6 months of 1978 compared to the same period in 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with jeans produced by Levi Strauss & Co. contributed importantly to the decline in sales or production and to the total or partial separations of the workers of the Valdosta, Ga. plant. In accordance

with the provisions of the Act, I make the following certification:

All workers at the Valdosta, Ga. plant of Levi Strauss & Co. who became totally or partially separated from employment on or after February 12, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 18th day of October 1978.

JAMES F. TAYLOR,
*Director, Office of Management,
Administration and Planning.*

[FR Doc. 78-29944 Filed 10-23-78; 8:45 am]

[4510-28-M]

[TA-W-3656]

LYNDHURST COAT, INC. HACKENSACK, N.J.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3656: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on May 8, 1978 in response to a worker petition received on April 28, 1978 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' outerwear and rainwear at Lyndhurst Coat, Inc., Hackensack, N.J. During the course of the investigation it was established that Lyndhurst Coat, Inc., produces only ladies' winter coats and ladies' raincoats.

The Notice of Investigation was published in the FEDERAL REGISTER on May 26, 1978 (43 FR 22793). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Lyndhurst Coat, Inc., its manufacturers, the U.S. Department of Commerce, the U.S. International Trade Commission, the National Cotton Council of America, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met.

That increases of imports of articles like or directly competitive with articles produced by the firm or subdivision have contributed importantly to the total or partial

separation, or threat thereof, and to the absolute decline in sales or production.

A survey of the manufacturers purchasing coats and raincoats from Lyndhurst Coat, Inc. indicated that the only manufacturer who purchased imported ladies' coats or raincoats in 1976 and/or 1977 decreased purchases of imports in 1977 compared to 1976. Total annual sales by this manufacturer increased over the same period.

Two manufacturers increased purchases of imported ladies' coats and raincoats in the first quarter of 1978 compared to the first quarter of 1977. These manufacturers also increased contracts with other domestic contractors over the period. Furthermore, Lyndhurst's sale and employment increased in the first quarter of 1978 compared to the first quarter of 1977 and in the first 5 months of 1978 compared to the first 5 months in 1977.

CONCLUSION

After careful review, I determine that all workers of Lyndhurst Coat, Inc., Hackensack, N.J. are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 17th day of October 1978.

JAMES F. TAYLOR,

*Director, Office of Management,
Administration and Planning.*

[FR Doc. 78-29945 Filed 10-23-78; 8:45 am]

[4510-28-M]

[TA-W-3602]

PENNSY COAT CO., PATERSON, N.J.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3602: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on May 8, 1978, in response to a worker petition received on April 28, 1978, which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' raincoats at Pennsy Coat Co., Paterson, N.J.

The Notice of Investigation was published in the FEDERAL REGISTER on May 26, 1978 (43 FR 22793). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Pennsy Coat Co., Inc., its customers (manufacturers), the U.S. Department of Com-

merce, the U.S. International Trade Commission, the National Cotton Council of America, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met. It is concluded that all requirements have been met.

U.S. imports of women's, misses', and children's raincoats decreased from 261 thousand dozen in 1976 to 242 thousand dozen in 1977. Imports increased from 84 thousand dozen in the first quarter of 1977 to 129 thousand dozen in the first quarter of 1978. The ratio of imports to domestic production declined from 45.0 percent in 1976 to 40.3 percent in 1977.

The Department conducted a survey of the principal manufacturers for which Pennsy Coat worked in 1976 and 1977. A manufacturer that accounted for a majority of sales in 1977 went out of business in February 1978. A survey of this manufacturer's customers revealed that a major customer increased purchases of imported ladies' raincoats and reduced purchases from the manufacturer in the first quarter of 1978 compared to the first quarter of 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports of articles like or directly competitive with the ladies' raincoats produced at Pennsy Coat Co., Inc., Paterson, N.J. contributed importantly to the decline in sales and to the separation of workers at that plant. In accordance with the provisions of the Act, I make the following certification:

All workers of Pennsy Coat Co. Inc., Paterson, N.J. who became totally or partially separated from employment on or after December 1, 1977, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 17th day of October 1978.

JAMES F. TAYLOR,

*Director, Office of Management,
Administration and Planning.*

[FR Doc. 78-29146 Filed 10-23-78; 8:45 am]

[4510-28-M]

[TA-W-4083]

REIDBORD BROTHERS CO., INC., PHILIPPI, W. VA.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the re-

sults of TA-W-4083: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on August 18, 1978, in response to a worker petition received on August 18, 1978, which was filed on behalf workers and former workers producing men's work trousers at the Philippi, W. Va. plant of Reidbord Brothers Co., Inc.

The Notice of Investigation was published in the FEDERAL REGISTER on September 1, 1978 (43 FR 39193-94). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Reidbord Brothers Co., Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That sales or production, or both, of the firm or subdivision have decreased absolutely.

Sales of Reidbord Brothers Co., Inc., Pittsburgh, Pa., increased from fiscal year (Dec. 1 through Nov. 30) 1976 to fiscal year 1977 and during the first fiscal half of 1978 compared with the same period in 1977. All production at the Philippi, W. Va., plant is part of the integrated operations of Reidbord Bros. Production at the Philippi plant increased from fiscal year 1976 to fiscal year 1977 and during the first half of 1978 compared to the same period of 1977.

CONCLUSION

After careful review, I determine that all workers of the Philippi, W. Va., plant of Reidbord Brothers Co., Inc., are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 17th day of October, 1978.

JAMES F. TAYLOR,

*Director, Office of Management,
Administration and Planning.*

[FR Doc. 78-29947 Filed 10-23-78; 8:45 am]

[4510-28-M]

[TA-W-3843]

**STRIDE RITE MANUFACTURING CORP.,
BROCKTON, MASS.**

**Negative Determination Regarding Eligibility
To Apply for Worker Adjustment Assistance**

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3843: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on June 14, 1978, in response to a worker petition received on June 9, 1978, which was filed on behalf of workers and former workers producing infants' shoes at Stride Rite Manufacturing Corp., Brockton, Mass.

The Notice of Investigation was published in the FEDERAL REGISTER on June 27, 1978 (43 FR 27924). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of the Stride Rite Manufacturing Corp., its customers, the American Footwear Industries Association, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the decline in sales or production.

Stride Rite Corp. sales in value have increased each year since 1975. Further, the average number of workers was higher in the first half of 1978 than in the same period in 1977. Most customers of the Stride Rite Manufacturing Corp. surveyed increased purchases of infants' shoes from the subject firm during 1977 compared to their purchases of the previous year and during the first 6 months of 1978 compared to the first 6 months of 1977.

CONCLUSION

After careful review, I determine that all workers of the Brockton, Mass., plant of the Stride Rite Manufacturing Corp. are denied eligibility to apply for adjustment assistance

under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 17th day of October, 1978.

JAMES F. TAYLOR,
*Director, Office of Management,
Administration and Planning.*

[4510-28-M]

[TA-W-4041]

**TENN-TEX ALLOY CORP. OF HOUSTON,
HOUSTON, TEX.**

**Negative Determination Regarding Eligibility
To Apply for Worker Adjustment Assistance**

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-4041: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on August 7, 1978 in response to a worker petition received on August 7, 1978, which was filed by the United Steelworkers of America on behalf of workers and former workers producing high carbon ferromanganese and silicomanganese at Tenn-Tex Alloy Corp. of Houston, Houston, Tex.

The Notice of Investigation was published in the FEDERAL REGISTER on August 29, 1978 (43 FR 38635). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from Officials of Tenn-Tex Alloy Corp. of Houston, the United Steelworkers of America, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. Without regard to whether any of the other criteria have been met the following criterion has not been met.

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threats thereof, and to the absolute decline in sales or production.

Tenn-Tex Alloy Corp. of Houston produced high carbon ferromanganese and silicomanganese at its plant in Houston, Tex. The plant was shut down in December following a strike which began on July 31, 1977.

The shutdown of the plant was a result of the failure to negotiate a settlement to a strike at the plant which began on July 31, 1977, and not a result of imports of ferroalloys.

The strike began more than 1 year prior to the date of the petition. Therefore, no workers separated prior to the beginning of the strike could be covered if a certification were to be issued.

CONCLUSION

After careful review, I determine that all workers of Tenn-Tex Alloy Corp. of Houston, Houston, Tex., are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 17th day of October 1978.

JAMES F. TAYLOR,
*Director, Office of Management,
Administration and Planning.*
[FR Doc. 78-29949 Filed 10-23-78; 8:45 am]

[4510-28-M]

[TA-W-3835]

**VERSAILLES TEXTILE PRINT CORP.,
WECHAWKEN, N.J.**

**Negative Determination Regarding Eligibility
To Apply for Worker Adjustment Assistance**

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3835: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on June 12, 1978, in response to a worker petition received on June 8, 1978, which was filed by the Amalgamated Clothing and Textile Workers Union on behalf of workers and former workers producing printed fabrics for women's wear at Versailles Textile Print Corp., Weehawken, N.J.

The Notice of Investigation was published in the FEDERAL REGISTER on June 27, 1978 (43 FR 27925). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Versailles Textile Print Corp., its customers, the U.S. Department of Commerce, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the

separations, or threat thereof, and to the absolute decline in sales or production.

The petition appears to allege that imports of finished garments have contributed to the closing of Versailles Textile Print Corp. Imported wearing apparel cannot be considered to be like or directly competitive with finished fabric. Imports of all types of finished fabric must be considered in determining import injury to workers producing printed fabric at Versailles Textile Print Corp.

Aggregate imports of all finished fabric (bleached, dyed, and printed) declined absolutely from 1976 to 1977 and then increased in the first quarter of 1978 compared to the same period in 1977. The ratios of imports to domestic production and consumption remained less than 2 percent from 1974 through 1977.

Customers who contracted with Versailles for printing on fabric were surveyed. The survey revealed that none of the customers surveyed purchased imported fabric during the period from 1976 through the first quarter of 1978. Customers increased their printing contracts with Versailles during 1977 and the first quarter of 1978.

CONCLUSION

After careful review, I determine that all workers of Versailles Textile Print Corp., Weehawken, N.J., are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 17th day of October 1978.

JAMES F. TAYLOR,
*Director, Office of Management,
Administration and Planning.*

[FR Doc. 78-29950 Filed 10-23-78; 8:45 am]

[4510-28-M]

[TA-W-3632]

WINTER SCENE FASHIONS, INC., HOBOKEN,
N.J.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3632: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on May 8, 1978, in response to a worker petition received on April 28, 1978, which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' coats at Winter Scene Fashions, Inc., Hoboken, N.J.

The Notice of Investigation was published in the FEDERAL REGISTER on May 26, 1978 (43 FR 22793). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Winter Scene Fashions, Inc., and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or subdivision have contributed importantly to the total or partial separation, or threat thereof, and to the absolute decline in sales or production.

The ladies' and children's coats industry is typically a seasonal operation. In most years, contractors suffer a period of negligible orders during the first quarter of the year, before winter production begins. Although employment declines occurred at Winter Scene during the period under investigation, these employment declines are seasonal. Winter Scene Fashions, Inc., has been closed for 5 months during each spring season since 1975.

CONCLUSION

After careful review, I determine that all workers of the Winter Scene Fashions, Inc., Hoboken, N.J., are denied eligibility for adjustment assistance under Title II, Chapter of the Trade Act of 1974.

Signed at Washington, D.C., this 17th day of October, 1978.

JAMES F. TAYLOR,
*Director, Office of Management,
Administration and Planning.*

[FR Doc. 78-29951 Filed 10-23-78; 8:45 am]

[1410-03-M]

LIBRARY OF CONGRESS

AMERICAN FOLKLIKE CENTER BOARD OF
TRUSTEES

Meeting

OCTOBER 19, 1978.

As required by Pub. L. 92-463, notice is hereby given that a meeting of the Board of Trustees of the American Folklife Center will be held beginning at 9:30 a.m., Monday, November 20, 1978, at the Woodstock Inn, Woodstock, Vt.

This meeting is a regularly scheduled meeting of the Board. The meet-

ing is open to the public. Any member of the public wishing to attend or to obtain additional information should contact Raymond L. Dockstader, Deputy Director of the American Folklife Center, 202-426-6590, by close of business, November 6.

RAYMOND L. DOCKSTADER,
*Deputy Director,
American Folklife Center.*

[FR Doc. 78-29887 Filed 10-23-78; 8:45 am]

[7510-01-M]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 78-51]

APPLICATIONS STEERING COMMITTEE (ASC), SUPPORTING RESEARCH AND TECHNOLOGY (SR&T) AD HOC ADVISORY SUBCOMMITTEE

Meeting

The Supporting Research and Technology (SR&T) Ad Hoc Advisory Subcommittee of the Applications Steering Committee (ASC) will meet at NASA Headquarters, 600 Independence Avenue SW., Washington, D.C., on November 8, 1978. The meeting will be held in Room 347 of FOB 10 from 1:30 p.m. to 4:30 p.m. The Subcommittee will discuss, evaluate, and categorize the unsolicited proposals submitted to NASA to perform ground-based research work as described in the Applications Notice dated April 19, 1978. Discussion of the professional qualifications of the proposers and their potential scientific contributions to materials technology would invade the privacy of the proposers and the other individuals involved. Since the Subcommittee sessions will be concerned throughout with matters listed in 5 U.S.C. 552b(c)(6) as described above, it has been determined that the sessions should be closed to the public.

For further information, please contact Dr. John R. Carruthers, NASA Headquarters, Washington, D.C., at 202-755-8582.

AGENDA

SUPPORTING RESEARCH AND TECHNOLOGY (SR&T)
AD HOC ADVISORY SUBCOMMITTEE

November 8, 1978

1:30 p.m.—Introductory Remarks.
1:45 p.m.—General review of unsolicited proposals for ground-based research.
4:00 p.m.—Final recommendations of Subcommittee regarding review of proposals.

Dated: October 18, 1978.

ARNOLD W. FRUTKIN,
*Acting Associate Administrator
for External Relations.*

[FR Doc. 78-29856 Filed 10-23-78; 8:45 am]

[7510-01-M]

[Notice 78-50]

NASA ADVISORY COUNCIL (NAC) SPACE SYSTEMS AND TECHNOLOGY ADVISORY COMMITTEE (SSTAC) AND APPLICATIONS STEERING COMMITTEE (ASC) SUPPORTING RESEARCH AND TECHNOLOGY (SR&T) AD HOC ADVISORY SUBCOMMITTEE

Joint Meeting

The Informal Ad Hoc Advisory Subcommittee on Materials Processing in Space (MPS) of the NAC Space Systems and Technology Advisory Committee will meet with the Materials Processing Panel of the Applications Steering Committee, SR&T Ad Hoc Advisory Subcommittee to discuss important approaches and considerations for materials processing which can be benefited by the space environment and the important role of ground-based research as background for the NASA Materials Processing in Space program on November 8, 1978. The joint meeting will be held from 9:30 a.m. to 12:30 p.m. in Room 625T, NASA Headquarters, 600 Independence Avenue SW., Washington, D.C. A continuation of the SSTAC meeting only will then take place from 1:30 p.m. to 3:30 p.m. in the same room. It will be open to the public up to the seating capacity of the room (about 40 persons including subcommittee and panel members as well as participants).

The SSTAC Informal Ad Hoc Advisory Subcommittee was established to advise the NASA Materials Processing in Space program regarding its long range plans; it has five members and is chaired by Dr. Martin Glicksman. The SR&T Materials Processing Panel is a group of scientists who evaluate proposals submitted in response to Announcements of Opportunity and unsolicited proposals for space and ground based investigations to be supported by the MPS program. It has 22 members and is chaired by Dr. John R. Carruthers.

For further information, contact Dr. James H. Bredt, Executive Secretary of the Informal Ad Hoc Subcommittee on Materials Processing in Space and the Materials Processing Panel, Code EM-7, NASA Headquarters, Washington, D.C., 20546, 202-755-8573.

AGENDA

November 8, 1978

- 9:30 a.m.—Introductory Remarks.
- 10:00 a.m.—Presentation on existing NASA Materials Processing in Space program philosophy and the role of ground-based research.
- 1:00 p.m.—Committee discussion and formulation of recommendations.
- 3:30 p.m.—Adjourn.

Dated: October 18, 1978.

ARNOLD W. FRUTKIN,
*Acting Associate Administrator
for External Relations.*

[FR Doc. 78-29855 Filed 10-23-78; 8:45 am]

[7537-01-M]

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

NATIONAL ENDOWMENT FOR THE ARTS

MUSIC ADVISORY PANEL

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Music Advisory Panel (Choral Section) to the National Council in the Arts will be held on November 10, 1978, from 9 a.m. to 5 p.m.; November 11, 1978, from 9 a.m. to 5 p.m., in the Choral Rehearsal Room, Orchestra Hall, 220 South Michigan Avenue, Chicago, Ill.

A portion of this meeting will be open to the public on November 10, 1978, from 9 a.m. to 5 p.m.; and on November 11, 1978, from 9 a.m. to 2 p.m. The topics of discussion will be policy and guidelines.

The remaining sessions of this meeting on November 11, 1978, from 2 p.m. to 5 p.m., are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the FEDERAL REGISTER March 17, 1977, these sessions will be closed to the public pursuant to subsections (c) (4), (6), and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call 202-634-6070.

JOHN H. CLARK,
*Director, Office of Council and
Panel Operations, National
Endowment for the Arts.*

[FR Doc. 78-29857 Filed 10-23-78; 8:45 am]

[7555-01-M]

**NATIONAL SCIENCE FOUNDATION
SUBCOMMITTEE ON METABOLIC BIOLOGY**

Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Subcommittee on Metabolic Biology of the Advisory Committee for Physiology, Cellular, and Molecular Biology.

Date and time: November 9, and 10, 1978—9 a.m. to 5 p.m. each day.

Place: Room 338, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.

Type of meeting: Closed.

Contact person: Dr. Elijah B. Romanoff, Program Director, Metabolic Biology Program, Room 331, National Science Foundation, Washington, D.C. 20550, telephone 202-632-4312.

Purpose of subcommittee: To provide advice and recommendations concerning support for research in metabolic biology.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

M. REBECCA WINKLER,
*Committee Management
Coordinator.*

OCTOBER 19, 1978.

[FR Doc. 78-29881 Filed 10-23-78; 8:45 am]

[7555-01-M]

SUBCOMMITTEE ON THE CONDENSED MATTER SCIENCES OF THE MATERIALS RESEARCH ADVISORY COMMITTEE

Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Subcommittee on the Condensed Matter Sciences of the Materials Research Advisory Committee.

Date and time: November 9 and 10, 1978—9 a.m. to 5 p.m. each day.

Place: Room 540, National Science Foundation, 1800 G Street, NW., Washington, D.C. 20550.

Type of meeting: November 9, open; November 10, open.

Contact person: Dr. D. L. Mitchell, Condensed Matter Sciences Section, Room 404, National Science Foundation, Washington, D.C. 20550, telephone 202-632-7404.

Purpose of subcommittee: To provide advice and recommendations concerning support of research in the condensed matter sciences.

Agenda:

November 9—9 a.m. to 5 p.m. Oversight review of the condensed matter theory program. Report of ad hoc review committee. Reports and discussion of major projects.

November 10—9 a.m. to 5 p.m. Final committee report on review of condensed matter theory. Reports of special studies. Future outlook and directions.

Summary minutes: May be obtained from the Committee management Coordinator, Room 248, Division of Financial and Administrative Management, National Science Foundation, Washington, D.C. 20550.

M. REBECCA WINKLER,
Committee Management
Coordinator.

OCTOBER 19, 1978.

[FR Doc. 78-29882 Filed 10-23-78; 8:45 am]

[7590-01-M]

**NUCLEAR REGULATORY
COMMISSION**

[Docket No. 50-320]

**METROPOLITAN EDISON CO., ET AL., THREE
MILE ISLAND NUCLEAR STATION, UNIT 2**

Order for Modification of License

I. The Metropolitan Edison Co., et al. (the licensee or Met Ed), is the holder of Facility Operating License No. DPR-73 which authorizes the operation of the nuclear power reactor known as Three Mile Island Nuclear Station, Unit 2 (the facility or TMI-2), at reactor core power levels not in excess of 2772 megawatts thermal (rated power). The facility, using a Babcock & Wilcox Co., designed pressurized water reactor (PWR), is located at the licensee's site in Dauphin County, Pa.

II. In accordance with the requirements of the Commission's ECCS Acceptance Criteria, 10 CFR Part 50.46, the licensee submitted on March 31, 1976 an ECCS evaluation for the facility. The ECCS evaluation submitted by the licensee was based upon an ECCS Evaluation Model Developed by the Babcock & Wilcox Co. (B&W), the designer of the nuclear steam supply system for this facility. The B&W ECCS Evaluation Model had been previously found to conform to the requirements of the Commission's ECCS Acceptance Criteria, 10 CFR Part 50.46 and Appendix K. The evaluation indicated that with the limits set forth in the facility's Technical Specifica-

tions, the ECCS cooling performance for the facility would conform with the criteria contained in 10 CFR Part 50.46(b) which govern calculated peak clad temperature, maximum cladding oxidation, maximum hydrogen generation, coolable geometry and long-term cooling.

On April 12, 1978, B&W informed the NRC that it had determined that in the event of a small break loss-of-coolant accident (LOCA) on the discharge side of a reactor coolant pump, high pressure injection (HPI) flow to the core could be reduced somewhat. Subsequent calculations indicated that in such a case the calculated peak clad temperature might exceed 2200 F.

Previous small break analyses for B&W 177 fuel assembly (FA) lowered loop plants had identified the limiting small break to be in the suction line of the reactor coolant pump. Recent analyses have shown that the discharge line break is more limiting than the suction line break.

The Three Mile Island Nuclear Station, Unit 2, has an ECCS configuration which consists of two high pressure injection trains. Each train has an HPI pump and the train injects into two of the four reactor coolant system (RCS) cold legs on the discharge side of the RCS pump. (There is also a third HPI pump installed.) The two parallel HPI trains are connected but are kept isolated by manual valves (known as the cross-connect valves) that are normally closed. Upon receiving a safety injection signal the HPI pumps are started and valves in the four injection lines are opened. Assuming loss of offsite power and the worst single failure (failure of diesel start) only one HPI pump would be available and two of the four injection valves would fall to open.

If a small break is postulated to occur in the RCS piping between the RCS pump discharge and the reactor vessel, the high pressure injection flow injected into this line (about half of the output of one high pressure injection pump) could flow out the break. Therefore, for the worst combination of break location and single failure, only one-half of the flow rate of a single high pressure injection pump would contribute to maintaining the coolant inventory in the reactor vessel. This situation had not been previously analyzed and B&W had indicated that the limits specified in 10 CFR Part 50.46 may be exceeded.

B&W had stated that they had analyzed a spectrum of small breaks in the pump discharge line and had determined that to meet the limits of 10 CFR Part 50.46, operator action was required to open the two manually-operated cross-connect valves and to manually open the two motor-driven isolation valves which had failed to

open and align all four isolation valves. This would allow the flow from the one HPI pump to feed all four reactor coolant legs. B&W has assumed that 30 percent of the flow would be lost through the break and 70 percent would contribute to recovering the core.

B&W had prepared a summary entitled "Analysis of Small Breaks in the Reactor Coolant Pump Discharge Piping for the B&W Lowered Loop 177 FA Plants," May 1, 1978 (the B&W Summary), which describes the methods used and the results obtained in the above analysis. The analysis modeled operator action by assuming a step increase in flow to the reactor vessel (with balanced flow in the three intact loops) 10 minutes after the LOCA reactor protection system trip signal occurs.

By letter dated May 5, 1978, Met Ed submitted a copy of the B&W Summary for our review. In their submittal Met Ed stated that they had reviewed the B&W Summary and determined that the results were applicable to TMI-2 and that operation of TMI-2 up to 2568 megawatts thermal would be in full conformance with 10 CFR Part 50.46.

In their submittal of May 5, 1978, Met Ed also stated that they had modified certain plant procedures to provide the necessary operator actions on a time scale consistent with that assumed in the analysis, and that they had conducted drills to verify that the assumed operator response time was achievable. The Commission's Office of Inspection and Enforcement has confirmed that appropriate procedures are in place and that drills were performed which verified operator response time. Met Ed also committed to submit a proposal for a permanent solution to this problem by August 5, 1978.

In their letter of May 11, 1978, Met Ed provided additional information clarifying aspects of the proposed manual actions.

In the event of a small break and a limiting single failure, manual action will be taken to begin opening the crossconnect valves and the isolation valves within five minutes and have them opened and an adequate flow split obtained within 10 minutes. To facilitate this operation the licensee has committed to maintain one of the series-connected, manually-operated cross-connect valves normally open. The analysis performed by B&W assumed that the flow split was established at 650 seconds by operator action. We concluded that the analysis provides a reasonable approximation of the operator action that actually will be taken, since specific procedures have been prepared and drills performed to verify the adequacy of the

procedures and to train the plant operators.

Based on the B&W analysis available at that time and the licensee's commitment to provide operator action consistent with that assumed in the analyses, we issued an Order for Modification of License dated May 26, 1978, which amended the facility license to: (1) limit the maximum reactor power level to 2568 Mwt, (2) require operation in accordance with the procedures committed to by the licensee, and (3) require submission of further analysis as soon as possible.

By letter dated July 18, 1978, B&W submitted a summary of further analyses of this event. This summary (the 2772 Summary) described the methods used and the results obtained for small breaks in the pump discharge piping for a reactor power of 2772 Mwt, which is the rated power level of TMI-2. The results provided in this 2772 Summary were obtained by incorporating two modifications in the B&W ECCS Evaluation Model. These modifications, which involve use of a two-node inner vessel simulation and phase distributional multipliers for bubble rise in all control volumes within the reactor vessel, were described in a B&W letter to the staff dated May 26, 1978.

By letter dated July 24, 1978, the licensee stated that it had reviewed the B&W submittal of July 18, 1978, and had found the conclusions acceptable and applicable to TMI-2. Based on this review, the licensee requested authorization to operate TMI-2 at 100 percent full power (2772 Mwt).

We have reviewed the B&W submittal of July 18, 1978. This submittal presents the results of analyses performed for reactor coolant pump discharge line break sizes of 0.15, 0.10, 0.085, 0.07, 0.055 and 0.004 ft² at a reactor power level of 2772 Mwt. Based on these results, B&W states that with operator action consistent with that modelled in the analysis, a 0.07 ft² discharge line break is the most limiting case. In this case, core uncover occurs for about 410 seconds and the conservatively calculated peak clad temperature is approximately 1092 F. This temperature is well below the limit specified in 10 CFR 50.46(b).

Based on our review of these analyses, we find that the calculations support the conclusion that a 0.07 ft² discharge line break is the most limiting case. The analyses which have been submitted used a simplified input to the FOAM code for the distribution of steam sources. In our Order dated May 26, 1978, we had noted that the B&W Summary did not demonstrate that the assumptions employed in supplying heat inputs to the FOAM code were conservative and that we could not determine that operation at full

power conforms fully to the requirements of 10 CFR Part 50.46. We therefore required that the licensee submit as soon as possible a reevaluation wholly in conformance with 10 CFR Part 50.46.

In response to this requirement, B&W submitted with their letter dated August 11, 1978 the results of two FOAM code analyses for the limiting 0.07 ft² break for a power level of 2772 Mwt. One analysis used the simplified FOAM input that had been previously used by B&W and questioned by the staff. The other analysis used the more detailed input calculations, as previously reviewed and approved by the staff, to more properly account for the actual distribution of steam sources in the vessel.

A comparison of the FOAM calculations using these different inputs shows that the core mixture height and steaming rate calculated with FOAM were lower for the simplified input case than for the detailed distribution method. Since the peak cladding temperature would be higher for the case having more core uncover and lower steaming rate, the staff concluded from the analyses that the simplified FOAM code input method results in a more conservative calculation. Therefore, the staff finds that the B&W small break LOCA analyses using the simplified FOAM code input method are acceptably conservative. To meet the requirements of 10 CFR Part 50.46, operator action is necessary to locally actuate certain valves. These actions are to be completed in 10 minutes from the onset of the small break LOCA. Operator action modelled in the 2772 summary is the same as that previously described in Met Ed's letters of May 5 and May 11, 1978. (By another letter also dated July 24, 1978, Met Ed submitted their proposal for a permanent solution to the problem of eliminating reliance on that prompt operator action. This proposal has not yet been reviewed and does not form the basis for any evaluation herein.)

The original concern derived from an unexpected but nevertheless inadequate assessment of a spectrum of breaks. This deviation from 10 CFR 50.46 has been ameliorated on a temporary basis by the actions discussed herein. However, continued reliance on prompt operator action to perform the required steps to assure plant safety on a permanent basis is undesirable and should be replaced as promptly as possible by returning the system to automatic or control room actuation. To this extent, the original defect still remains until the modifications are made to eliminate the reliance on prompt operator actions. However, based on our review of the submittals by the licensee and B&W dis-

cussed above we conclude that operation of Three Mile Island Unit 2 at power levels up to 2772 Mwt in accordance with the operating procedures discussed herein will assure that the ECCS system will conform to the performance criteria of 10 CFR 50.46(b). Accordingly, until modifications are completed to achieve an acceptable permanent solution, operation of the facility at power levels up to 2772 Mwt with appropriate operating procedures will not endanger life or property or the common defense and security.

III. Copies of the following documents are available for inspection at the Commission's Public Document Room at 1717 H Street NW., Washington, D.C. 29555, and are being placed in the Commission's local public document room at the State Library of Pennsylvania, Commonwealth and Walnut Streets, Harrisburg, Pa., 17126:

1. Letters from J. G. Herbein to S.A. Varga, Chief, Light Water Reactors Branch No. 4, dated May 5, May 11, and July 24, 1978.

2. Order for Modification of License, Docket No. 50-320, dated May 26, 1978.

3. Letters from J. H. Taylor to S.A. Varga, Chief, Light Water Reactors Branch No. 4, dated July 18 and August 11, 1978.

IV. Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's Rules and Regulations in 10 CFR Parts 2 and 50, our Order for Modification of License dated May 26, 1978, is superseded effective this date and it is ordered that Facility Operating License No. DPR-73 is hereby amended by adding the following new provisions:

1. The reactor core power level shall not exceed 2772 megawatts thermal, and

2. Upon approval by the staff, the licensee shall undertake modifications to eliminate reliance on prompt operator action described herein, in accordance with an approved schedule, and

3. Until further authorization by the Commission, the licensee shall operate in accordance with the procedures describe in its letters of May 5, and May 11, 1978.

Dated at Bethesda, Md., this 13th day of October 1978.

For the Nuclear Regulatory Commission.

ROGER S. BOYD,
Director, Division of Project
Management, Office of Nuclear
Reactor Regulation.

[FR Doc. 78-29906 Filed 10-23-78; 8:45 am]

[3110-01-M]

OFFICE OF MANAGEMENT AND
BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on October 18, 1978 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes:

The name of the agency sponsoring the proposed collection of information;

The title of each request received;

The agency form number(s), if applicable;

The frequency with which the information is proposed to be collected;

An indication of who will be the respondents to the proposed collection;

The estimated number of responses; the estimated burden in reporting hours; and

The name of the reviewer or reviewing division or office.

Requests for extension which appear to raise no significant issues are to be approved after brief notice thru this release.

Further information about the items on this daily list may be obtained from the from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503, 202-395-4529, or from the reviewer listed.

REVISIONS

ACTION

Peace Corps Volunteers Background Information Form

PC-5

On occasion

Peace Corps volunteers, 7,000 responses; 3,500 hours

Reese, B. F., 395-3211

Department of Agriculture

Economics, Statistics, and Cooperatives Service

Commercial Floriculture Survey

Annually

Wholesale flower grower, 4,400 responses; 1,100 hours

Ellett, C. A., 395-6132

Department of Agriculture

Economics, Statistics, and Cooperatives Service

Cost of Production Survey

Annually

Selected crop producers, 7,800 responses; 7,800 hours

Office of Federal Statistical Policy and Standard, 673-7956

Ellett, C. A.

Department of Defense

Department of the Air Force

Teardown Deficiency Report

AFLC 399; Supplements A and B

On occasion

ACFT Manufacturing and/or Repair Contractors, 2,156 responses; 5,390 hours

Warren Topelius, 395-6132

EXTENSIONS

ACTION

"Employer Job Order Form" From Cutplacement Counseling Weekly

Target Firms; "Fortune 500," "NAM member firms," etc., 260 responses; 65 hours

Reese, B. F., 395-3211

ACTION

National Survey of High School Student Community

Service Programs

A-860

Single time

Random sample of U.S. high schools, 300 responses; 100 hours

Reese, B. F., 395-3211

Department of Housing and Urban Development

Federal Insurance Administration

Standard Reinsurance Contract

HUD-1601

Annually

Property insurance companies in United States of America, 200 responses; 600 hours

Caywood, D. P., 395-3443

Department of Housing and Urban Development

Administration (Office of Assistant Secretary)

Fiscal Information—Military Acquisition

FHA1176

On occasion

Banks, savings, and loans and mortgage companies, 120 responses; 60 hours

Caywood, D. P., 395-3443

Department of Housing and Urban Development

Housing Production and Mortgage Credit

Title I, Report of Complaint

FH-70

On occasion

Title I, borrowers, 1,000 responses; 500 hours

Caywood, D. P., 395-3443

DAVID R. LEUTHOLD,

Budget and Management Officer.

[FR Doc. 78-29960 Filed 10-23-78; 8:45 am]

[3110-01-M]

CLEARANCE OF REPORT

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the office of management and budget on October 17, 1978 (44 U.S.C. 3501). The purpose of

publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes—

The title of each request received;

The name of the agency sponsoring the proposed collection of information;

The Agency form number(s), if applicable;

The frequency with which the information is proposed to be collected;

An indication of who will be the respondents to the proposed collection;

The estimated number of responses;

The estimated burden in reporting hours; and

The name of the reviewer or reviewing division or office.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the clearance office, office of management and budget, Washington, D.C. 20503, 202-395-4529, or from the reviewer listed.

NEW FORMS

Department of Health, Education, and Welfare

Office of Education

Institutional Release of Funds/Request for Additional Funds: CWS and SEOG

OE-1286

Annually

Financial aid officers institution of higher education, 2,500 responses; 500 hours

Laverne V. Collins, 395-3214

Department of Health, Education, and Welfare

Health Care Financing Administration (Medicare)

Request for Addition Medical Information

HCFA-2081 and L-2081

On occasion

Providers of service submitting Medicare billing, 35,040 responses; 8,760 hours

Richard Eisinger, 395-3214

Department of Health, Education, and Welfare

Office of the Secretary

Employer Health Insurance Cost Survey

OS-10-78

Single-time

Cross-section of employers, 7,200 responses; 1,440 hours

Richard Eisinger, 395-3214

Department of Justice

Law Enforcement Assistance Administration

Juvenile Court Statistical Card

Single-time

Young people from ages 10-18, names and age, 90,000 responses; 9,000 hours

Office of Federal Statistical Policy and Standard, 673-7956
Laverne V. Collins
Department of Labor
Labor Management and Service Administration
Survey of Employee Welfare Benefit Plan Provisions
LMSA-89T and 90T
Single-time
Plan sponsors of welfare benefit plans, 8,500 responses; 760 hours
Strasser, A. 395-6132

REVISIONS

Department of Health, Education, and Welfare
Office of Education
Terminal Report for Holders of National Foreign Language Graduate Fellowship
OE-7614
Annually
Graduate students, 3,600 responses; 900 hours
Laverne V. Collins, 395-3214
Department of Health, Education, and Welfare
Office of Education
Financial Status and Performance Reports—State
Student Incentive Grant Program
OE-1288-1
Annually
State agencies, 50 responses; 400 hours
Laverne V. Collins, 395-3214
Department of Health, Education, and Welfare
Office of Education
ADS Student Report (Request of Additional Payment of BEOG Award)
OE 304-1
On occasion
BEOG recipients and institutions they enroll in, 10,000 responses; 3,333 hours
Laverne V. Collins 395-3214
Department of Justice
Law Enforcement Assistance Administration
1978 NILECJ Planning Survey
LEAA 6060
Single-time
Criminal Justice research professionals, 500 responses; 250 hours
Laverne V. Collins, 395-3214
Department of Labor
Bureau of Labor Statistics
Initiation International Price Program (Exports) and Repricing Form
BLS 2894A, 2894B, and 2894C
Monthly
Exporters, 17,500 responses; 2,916 hours
Strasser, A., 395-6132
Department of Labor
Bureau of Labor Statistics
Initiation International Price Program (Imports) and Repricing Form
BLS 3007A, 3007B, and 3007C
Monthly
Importers, 9,500 responses; 1,583 hours
Strasser, A., 395-6132

NOTICES

EXTENSIONS

Department of Agriculture
Economics, Statistics, and Cooperatives Service
Rice Stocks at Mills and Warehouses; Receipts at Mills
Other (see SF-83)
Rice mills and warehouses, 1,360 responses; 303 hours
Ellett, C. A., 395-6132
Department of Agriculture
Economics, Statistics, and Cooperatives Service
Environmental and Corn Yield Study (Missouri)
Single-time
Sample of corn growers, 660 responses; 206 hours
Office of Federal Statistical Policy and Standard, 673-7956
Ellett, C. A.
Department of Agriculture
Agricultural Marketing Service
Original Warehouse Examination Report—Processed Commodities (for Approval as a Storage Facility)
TW-561
On occasion
Public commercial warehouses, 150 responses; 900 hours
Ellett, C. A., 395-6132
Department of Commerce
Bureau of Census
Inorganic Fertilizer Chemicals (Production and Stocks)
M-28B.1
Monthly
Chemical manufacturers, 1,860 responses; 744 hours
C. Louis Kincannon, 395-3211
Department of Defense
Departmental and Other
Engineering Change Proposal
DD 1692
On occasion
All Government contractors/mil indus facs, 2,100 responses; 12,600 hours
Warren Topelius, 395-6132
Department of Health, Education, and Welfare
Office of Education
Report on Title I, ESEA Comparability
4524
Annually
State educational agencies, 56 responses; 168 hours
Laverne V. Collins, 395-3214
Department of Health, Education, and Welfare
Health Care Financing Administration (Medicare)
Physician's Practice Cost Survey
HCFA-3482
On occasion
Physicians in 18 specialists, 6,500 responses; 3,250 hours
Richard Eisinger, 395-3214

DAVID R. LEUTHOLD,

Budget and Management Officer.

[FR Doc. 78-29961 Filed 10-23-78; 8:45 am]

[7715-01-M]

POSTAL RATE COMMISSION

VISIT TO POSTAL FACILITY

OCTOBER 18, 1978.

Notice is hereby given that Vice Chairman Simeon M. Bright, Commissioner Kieran O'Doherty, and certain staff members will visit a United Parcel Service facility on the date indicated for the purpose of acquiring general background knowledge of <operations.

No particular matter at issue in contested proceedings before the Commission nor the substantive merits of a matter that is likely to become a particular matter at issue in contested proceedings before the Commission will be discussed.

A report of the visit will be on file in the Commission's Docket room.

Place of Visit.—3901 Vero Road, Baltimore, Md.

Time of Visit.—1 p.m. to 2 p.m.

Date of Visit.—October 25, 1978.

By direction of the Commission.

CYRIL J. PITTACK,
Acting Secretary.

[FR Doc. 78-29854 Filed 10-23-78; 8:45 am]

[8010-01-M]

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 10436; 812-4256]

ADAMS FIDUCIARY BOND FUND

Filing Application for Exemption

OCTOBER 13, 1978.

In the matter of Adams Fiduciary Bond Fund, 55 Court Street, Boston, Mass. 02108, 812-4256.

Notice is hereby given that Adams Fiduciary Bond Fund ("Fund"), an open-end diversified investment company registered under the Investment Company Act of 1940 (the "Act"), filed an application on January 12, 1978, and an amendment thereto on October 2, 1978, for an order pursuant to section 6(c) of the Act declaring that Miss Dorothy A. Brown shall not be deemed an "interested person" of the Fund or its investment adviser within the meaning of section 2(a)(19) of the Act by reason of her position with the Boston Safe Deposit & Trust Co. ("Boston Safe"). All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

The application states that it is contemplated that Miss Brown will serve as a Trustee of the Fund. The principal occupation of Miss Brown is Vice-President and Portfolio Manager of Boston Safe, a long established trust

company engaged primarily in investment management and other trust company, fiduciary, and related banking services. As such, Miss Brown manages the investments of a number of individual trusts, estates, and agency accounts. Miss Brown is also a present or past trustee of the Cape Ann Historical Association, the New England Peabody Home for Crippled Children, Kieve Affective Education, Inc., and St. Luke's Home for Convalescents.

The Boston Co., Inc., a holding company whose subsidiaries are engaged in providing resource management services, owns more than 99 percent of the stock of Boston Safe. The Boston Co. Financial Strategies, Inc. ("Strategies"), which is registered under the Investment Advisers Act of 1940, is a wholly owned subsidiary of The Boston Co., Inc., and provides financial planning an asset management services for its clients. Strategies has a subsidiary, The Boston Co. Investment Creation, Inc. ("TBCIC"), which is a registered broker-dealer under the Securities Exchange Act of 1934 (the "Exchange Act") and is involved exclusively in the structuring and sale of oil and gas programs and other special situation nonmarketable securities.

The application states that while there is a statutory presumption in section 2(a)(9) of the Act that a natural person is not a controlled person, that presumption may be rebutted by evidence and a contrary determination made by Commission order, and an officer of one subsidiary may be determined to be under common control with another subsidiary. The application further states that under such interpretation, Miss Brown could be determined to be under common control with TBCIC, since both TBCIC and Boston Safe are subsidiaries of The Boston Co., Inc. Section 2(a)(3) of the Act includes in the definition of "affiliated person" any person directly or indirectly controlling, controlled by, or under common control with such other person. Sections 2(a)(19) (A)(V) and (B)(V) of the Act define an "interested person" of an investment company and of an investment adviser of any investment company to include any broker or dealer registered under the Exchange Act or any affiliated person of such broker or dealer. The application states that if Miss Brown were considered to be under common control with TBCIC, she would be an affiliated person of TBCIC under section 2(a)(3) of the Act, and hence, an interested person of the Fund and its investment adviser, Adams, Harkness & Hill, Inc., under sections 2(a)(19) (A)(V) and (B)(V) of the Act. The Fund asserts that while it does not necessarily agree with such an interpretation, the Fund has deemed it advisable to clarify the status of Miss

Brown by applying for the exercise of the Commission's exemptive power under section 6(c) of the Act.

The Fund states that the relationship of Miss Brown with Boston Safe and Boston Safe's relationship with The Boston Co., Inc., Strategies, and TBCIC will not impair Miss Brown's independence in acting as a Trustee of the Fund. The application states that Miss Brown is not an officer or director of The Boston Co., Strategies, or TBCIC and therefore has no authority or responsibility for management of the operations of TBCIC.

The application states that because of the special nature of the type of investments with which TBCIC is presently involved, the Fund cannot legally purchase or sell such investments from or through TBCIC because of restrictions adopted by the Fund which require it to invest only in municipal securities and certain types of other short-term taxable instruments. Moreover, the Fund has undertaken in its application not to transact any business with TBCIC if TBCIC becomes involved with a type of security in which the Fund may legally invest.

In its application the Fund states its belief that Miss Brown is a person of recognized integrity, judgment, independence, and competence in the investment company industry. The Fund further asserts that Miss Brown is in fact a disinterested Trustee, and that it is in the best interests of the Fund that she be permitted to serve the Fund as a disinterested Trustee.

Section 6(c) of the Act provides, in part, that the Commission may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision of the Act or of any rule or regulation under the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than November 7, 1978, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant(s) at the address(es) stated above. Proof of such service (by affidavit, or in case of an

attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-29338 Filed 10-23-78; 8:45 am]

[8010-01-M]

[Release No. 34-15228; File No. SR-Amex-78-24]

AMERICAN STOCK EXCHANGE, INC.

Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), as amended, by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on September 25, 1978, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission, a rule change as follows:

EXCHANGE'S STATEMENT OF TERMS OF SUBSTANCE OF PROPOSED RULE CHANGE

The American Stock Exchange, Inc. ("Amex"), pursuant to Rule 19b-4 of the Securities Exchange Act of 1934 (the "Act"), hereby proposes to amend its policies relating to the expiration cycle on which certain option classes would be placed. The text of the proposed rule change is set forth below (brackets indicate deletions; italics indicate new material):

The Amex proposes to transfer ten (10) option classes from the January, April, July, October expiration cycle to the March, June, September, and December expiration cycle. Such a transfer would then result in 29 option classes traded on the January cycle, 24 option classes on the February, May, August, November cycle, and 11 option classes traded on the March cycle.

EXCHANGE'S STATEMENT OF BASIS AND PURPOSE

The purpose of the proposed amendment is to permit more even distribution of member firm operational tasks among expiration cycles. At present, 39 of the Exchange's 64 option classes expire on the January cycle, while

only one (1) option class expires on the March cycle. In addition, those January cycle classes have typically accounted for about 60 percent of the Exchange's contract volume. Further, it has been noted that contract volume tends to increase with the approach of the last day of trading in an expiration cycle, particularly the January cycle. The Exchange proposes to transfer ten (10) option classes from the January cycle to the March cycle in order to ease some of the workload of member firms' by distributing the volume more evenly throughout the year.

The transition would be expected initially upon the expiration of the October series in the ten (10) option classes through the introduction of June 1979, expiration cycles, instead of July expiration cycles for the subject option classes. Thereafter, upon the expiration of those ten (10) option classes in January 1979, and April 1979, the Exchange will introduce September 1979, and December 1979, expiration cycles, respectively, for the ten (10) option classes. This will result in the initiation of trading in each of the new June, September, and December expiration cycles approximately eight (8) months prior to their respective expiration dates.

It should be noted that all of the ten (10) option classes subject to this proposed transfer to the new March expiration cycle are presently traded exclusively on the Exchange. Therefore, this proposed transfer will not result in the commencement of multiple exchange trading of option classes on different expiration cycles, but rather merely the continuation of the exclusive trading of such options classes on this Exchange in a different expiration cycle.

This proposal is consistent with sections 6(b)(5) and 17A(a)(1)(A) of the act for it will facilitate the clearance and settlement of options transactions, and reduce periodic pressures upon the operational capabilities of member firms. This will operate to protect and benefit investors and the public interest.

The proposed rule amendment was considered and approved by the options committee of the Amex, which is composed of Amex members and representatives of Amex member organizations.

The Exchange does not believe this proposal will impose any burden on competition.

The foregoing rule change has become effective, pursuant to section 19(b)(3) of the Securities Exchange Act of 1934. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change

if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted by November 14, 1978.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

OCTOBER 12, 1978.

[FR Doc. 78-29839 Filed 10-23-78; 8:45 am]

[1505-01-M]

[Release No. 15188; SR-OCC-78-1]

OPTIONS CLEARING CORP. ("OCC")

Order Approving Proposed Rule Change;
Withdrawal of Previously Published Document

The text of Release No. 15188; SR-OCC-78-1 appearing on page 46093 in the FEDERAL REGISTER of Thursday, October 5, 1978, was published incorrectly; therefore, FR Doc. 78-28207 is withdrawn in its entirety.

[8010-01-M]

[Release No. 15189; SR-OCC-78-2]

OPTIONS CLEARING CORP.

Order Approving Proposed Rule Change

SEPTEMBER 25, 1978.

On May 15, 1978, OCC filed with the Commission, pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) (the "Act") and Rule 19b-4 thereunder, copies of a proposed rule change revising the formula used to determine the variable portion of clearing members' clearing fund contributions. Currently, that calculation is based on a clearing member's open interest, that is, the number of option contracts held in short positions. OCC proposes to

change the basis of the calculation to the value of the clearing member's open interest.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 34-14801, May 25, 1978) and by publication in the FEDERAL REGISTER (43 FR 24157, June 2, 1978). No written comments were received by the Commission. By letter dated July 18, 1978, OCC submitted the results of a test which, among other things, determined the effect of the proposed clearing fund formula on the size of the OCC clearing fund.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to clearing agencies, and in particular, the requirements of section 17A and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change referenced above be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-29836 Filed 10-23-78; 8:45 am]

[8010-01-M]

[Release No. 15188; SR-OCC-78-1]

OPTIONS CLEARING CORP. ("OCC")

Order Approving Proposed Rule Change

SEPTEMBER 25, 1978.

On May 15, 1978, OCC filed with the Commission, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) (the "Act") and Rule 19b-4 thereunder, copies of a proposed rule change which increased the margin requirements for certain low-priced, volatile, spot month options. Specifically, the proposal prescribes minimum marking prices for short positions in such options.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 34-14798, May 24, 1978) and by publication in the FEDERAL REGISTER (43 FR 23775, June 1, 1978). No written comments were received by the Commission. By letter dated July 18, 1978, OCC submitted the results of a test which, among other things, determined the effect of the proposal on clearing members' margin obligations.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to clearing agencies, and in particular, the requirements of section 17A and the rules and regulations thereunder.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act, that the proposed rule change referenced above be, and it hereby is approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-29835 Filed 10-23-78; 8:45 am]

[8025-01-M]

SMALL BUSINESS ADMINISTRATION

[License No. 04/04-5149]

MIAMI CAPITAL CORP.

Issuance of a License To Operate as a Small Business Investment Company

On July 27, 1978, a notice was published in the FEDERAL REGISTER (43 FR 32487) stating that Miami Capital Corp. located at 801 Dade Federal Building, 101 East Flagler Street, Miami, Fla. 33131, has filed an application with the Small Business Administration pursuant to 13 CFR 107.102 (1978) for a license to operate as a small business investment company under the provisions of section 301(d) of the Small Business Investment Act of 1958, as amended.

Interested parties were given until the close of business August 11, 1978, to submit their comments to SBA. No comments were received.

Notice is hereby given that having considered the application and other pertinent information, SBA has issued License No. 04/04-5149 to Miami Capital Corp. on October 6, 1978.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: October 16, 1978.

PETER F. MCNEISH,
*Deputy Associate Administrator
for Investment.*

[FR Doc. 78-29861 Filed 10-23-78; 8:45 am]

[8025-01-M]

[Declaration of Disaster Loan Area No. 1259; Amdt. No. 1]

NEW YORK

Declaration of Disaster Loan Area

The above numbered Declaration (See 41 FR 29233), is amended by changing the incidence period to June 30, 1976, through July 1, 1976, and ex-

tending the filing date for physical damage until the close of business on December 15, 1978, and for economic injury until the close of business on July 17, 1979.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: October 17, 1978.

A. VERNON WEAVER,
Administrator.

[FR Doc. 78-29864 Filed 10-22-78; 8:45 am]

[8025-01-M]

REGION V ADVISORY COUNCIL

Meeting

The Small Business Administration Region V Advisory Council, located in the geographical area of Indianapolis, Ind., will hold a public meeting at 10:30 a.m. e.s.t., on Wednesday, November 15, 1978, in the Midtown Ramada, 1530 North Meridian Street, Indianapolis, Ind., to discuss such matters as may be presented by members, staff of the Small Business Administration, or others present.

For further information, write or call William F. Miller, District Director, U.S. Small Business Administration, Federal Building, 5th Floor, 575 North Pennsylvania Street, Indianapolis, Ind. 46204, 317-331-7275.

Dated: October 18, 1978.

K. DREW,
*Deputy Advocate for
Advisory Councils.*

[FR Doc. 78-29863 Filed 10-23-78 8:45 am]

[8025-01-M]

[License No. 03/03-0138]

TDH CAPITAL CORP.

Application for a License as a Small Business Investment Company (SBIC)

Notice is hereby given of the filing of an application with the Small Business Administration pursuant to § 107.102 of the Regulations (13 CFR 107.102 (1978)), under the name of TDH Capital Corp., 2 Radnor Center, Radnor, Pa. 19082, for a license to operate in the Commonwealth of Pennsylvania as an SBIC under the provisions of the Small Business Investment Act of 1958 (Act), as amended (15 U.S.C. 661 et seq.).

The proposed officers/directors and major stockholders are as follows:

J. Mahlon Buck, Jr., President, Director, 121 Rose Lane, Haverford, Pa. 19041.
William C. Buck,* Vice President, Assistant Treasurer, Director, 274 Hothorte Lane, Villanova, Pa. 19085.
Alexander K. Buck,* Vice President, Assistant Secretary, Director, 4535 Province Line Road, Princeton, N.J. 08540.

Philip C. Herr,** Secretary, Treasurer, Director, 1701 Arch Street, Philadelphia, Pa. 19103.

John A. Hagy, Director, 1105 Stackhouse Mill Road, Newton Square, Pa. 19073.
TDH, Inc.—100 percent.

*Each owns approximately one-third of TDH, Inc.

**Owns less than 2 percent of TDH, Inc.

The Applicant will begin operations with a capitalization of \$4,000,000, which will be a source of long-term loans and venture capital for diversified small business concerns. In addition to financial assistance, the Applicant intends to render management assistance to small business concerns through its investment adviser, K. S. Sweet Associates.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and investment adviser, including adequate profitability and financial soundness in accordance with the Act and regulations.

Notice is further given that any interested person may, not later than November 8, 1978, submit written comments on the proposed company to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street NW., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in Radnor, Pa.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: October 16, 1978.

PETER F. MCNEISH,
*Deputy Associate Administrator
for Investment.*

[FR Doc. 78-29862 Filed 10-23-78; 8:45 am]

[4710-07-M]

DEPARTMENT OF STATE

**SHIPPING COORDINATING COMMITTEE,
SUBCOMMITTEE ON SAFETY OF LIFE AT SEA**

Meeting

The Working Group on Standards of Training and Watchkeeping of the Shipping Coordinating Committee's Subcommittee on Safety of Life at Sea (SOLAS) will conduct an open meeting at 9:30 a.m. on Wednesday, November 8, 1978 in Room 8334 of the Department of Transportation, 400 Seventh Street SW., Washington, D.C.

The purpose of the meeting will be to discuss the future work program of the Subcommittee on Standards of Training and Watchkeeping.

Requests for further information should be directed to Capt. D. E. Hand, U.S. Coast Guard (G-MVP/82), Washington, D.C. 20590. He may

be reached by telephone at 202-426-1500.

The Chairman will entertain comments from the public as time permits.

JOHN LLOYD III,
Acting Director,
Office of Maritime Affairs.

OCTOBER 12, 1978.

[FR Doc. 78-29867 Filed 10-23-78; 8:45 am]

[4910-22-M]

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

**TRAFFIC SAFETY IN HIGHWAY AND STREET
WORK ZONES**

Meeting

AGENCY: Federal Highway Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Highway Administration (FHWA) will hold a public meeting on November 7, 1978, to discuss the status of ongoing agency activities relating to safety in construction and maintenance work zones. Interested individuals and groups are invited to attend and participate in the discussion.

DATE: November 7, 1978.

TIME: 9:30 a.m.

PLACE: FAA Auditorium, Room 310, U.S. Department of Transportation, Federal Office Building 10A, 800 Independence Avenue SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Jim Daves, Contract Administration and Safety Branch, Office of Highway Operations, 202-426-4848, or Stan Abramson, Office of the Chief Counsel, 202-426-0791, Federal Highway Administration, 400 Seventh Street SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. e.s.t., Monday through Friday.

SUPPLEMENTARY INFORMATION: For the third consecutive year the Federal Highway Administration (FHWA) has designated traffic safety in construction and maintenance work zones an area for national emphasis. Although much has been accomplished during the first 2 years, field reviews conducted by FHWA, the General Accounting Office (GAO) and public interest groups demonstrate a need for further improvement. Accordingly, FHWA has adopted a positive action plan to assure this improvement.

Elements of the plan to be covered at the meeting include the recently

issued FHWA regulation on traffic safety in highway and street work zones (23 CFR Part 630, Subpart J), guidelines issued to FHWA field offices in this area, and development of a handbook to supplement Part VI of the Manual on Uniform Traffic Control Devices. Additional activities which may be discussed include training in proper traffic control techniques sponsored by FHWA's National Highway Institute and FHWA-sponsored research on traffic control devices for use in construction zones.

All interested individuals and groups are invited to attend. Following presentations by FHWA officials, an opportunity will be provided for the public to participate in the discussion of the foregoing activities.

Issued on: October 13, 1978.

KARL S. BOWERS,
Federal Highway Administrator.

[FR Doc. 78-29894 Filed 10-23-78; 8:45 am]

[4810-25-M]

DEPARTMENT OF THE TREASURY

Office of the Secretary

**DISCUSSION OF U.S.A.-CANADA TAX TREATY
ISSUES**

Announcement of Public Meeting

The Treasury Department today announces that it will hold a public meeting on December 13, 1978, to solicit the views of interested persons regarding issues being considered during negotiations to develop a new income tax treaty between the United States and Canada.

The public meeting will be held at the Treasury Department, at 2 p.m. Persons interested in attending are requested to give notice in writing by December 4, 1978, of their intention to attend. The room in which the meeting will be held will be announced after that date. Notices should be addressed to H. David Rosenbloom, International Tax Counsel, Department of the Treasury, Washington, D.C. 20220.

Today's announcement of the December public meeting follows the recent conclusion of a further round of negotiations between representatives of the United States and Canada to develop a new income tax treaty for the avoidance of double taxation and the prevention of tax evasion. The new treaty would replace the income tax treaty presently in effect, which was signed in 1942.

In the course of the recent negotiations, many subjects of mutual concern were identified and discussed. Among the major issues being considered are: The taxation of business income and income from personal ser-

vices; the taxation of dividends, interest, and royalties; the taxation of income from various forms of transportation; the taxation of capital gains, pensions, annuities, and income from the performance of government services; the treatment of the income of exempt organizations and contributions thereto; the allowance of foreign tax credits, particularly with respect to U.S. citizens resident in Canada; and nondiscrimination.

The Treasury seeks the views of interested persons in regard to these issues, as well as other matters that may have relevance in the context of an income tax treaty between the United States and Canada. The December 13 public meeting is being held to provide an opportunity for an exchange of views, as well as for the purpose of discussing the United States position in regard to the issues presented in the negotiations.

Dated: October 18, 1978.

DONALD C. LUBICK,
Assistant Secretary,
Tax Policy.

[FR Doc. 78-29917 Filed 10-23-78; 8:45 am]

[4810-25-M]

[General Counsel Order No. 1 (rev.)]

LEGAL DIVISION

Organization and Functions

Correction

In FR Doc. 78-29003, appearing at page 47343 in the issue for Friday, October 13, 1978, the following changes are made in paragraphs 3 and 5: Reference to "Assistant General Counsel—Tax Legislative Counsel" should be "Tax Legislative Counsel."

Dated: October 18, 1978.

HENRY C. STOCKELL, Jr.,
Deputy General Counsel.

[FR Doc. 78-29916 Filed 10-23-78; 8:45 am]

[7035-01-M]

**INTERSTATE COMMERCE
COMMISSION**

[Ex Parte No. MC-43]

**LEASE AND INTERCHANGE OF VEHICLES BY
MOTOR CARRIERS**

Decided: September 22, 1978.

Wales Transportation, Inc. (MC 83835 and numerous subs) and J. J. Willis Trucking Co. (MC 107993 and numerous subs), under common control have filed a petition for waiver of paragraph (a)(3) of §1057.4 of the Lease and Interchange of Vehicles Regulations (49 CFR 1057).

Findings: (1) The petitioners have an effective, jointly administered

safety program, and (2) The petitioners will be able to operate more efficiently and economically if permitted to trip lease.

It is ordered: Waiver of paragraphs (a)(3) is granted, provided petitioners remain in compliance with the motor carrier safety regulations of the U.S. Department of Transportation and under common control.

By the Commission, Motor Carrier Leasing Board, Board Members Joel E. Burns, Robert S. Turkington, and W. F. Sibbald, Jr.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-29955 Filed 10-23-78; 8:45 am]

[7035-01-M]

[No. MC-C-3437 (Sub-No. 7)]

PETITION TO AMEND INTERPRETATION OF OPERATING RIGHTS AUTHORIZING SERVICE AT DESIGNATED AIRPORTS

AGENCY: Interstate Commerce Commission.

ACTION: Notice of filing of petition seeking institution of rulemaking.

PETITIONER'S REPRESENTATIVE: Gerald K. Gimmel, 4 Professional Drive, Gaithersburg, Md. 20760.

SUMMARY: By petition filed October 3, 1978, Pinto Trucking Service, Inc., a motor common carrier specializing in the transportation of air freight between airports, seeks the institution of a rulemaking to amend the Commission's regulations to permit motor carriers with authority to serve specific airports to serve also any point within the air terminal areas of those airports.

DATES: Comments are due on or before December 8, 1978. An original and 11 copies (where possible) shall be filed with Commission.

FOR FURTHER INFORMATION CONTACT:

Michael Erenberg, 202-275-7292.

SUPPLEMENTAL INFORMATION:

Petitioner points out that in recent years the transportation of freight by air has undergone significant changes. With the increasing use of larger cargo-only aircraft, compatible roller-bed van equipment, and aircraft cargo bays to accommodate larger and sturdier containers, and the development of a "hub" and "feeder" airport system, motor transportation of air-freight has become a specialized and highly sophisticated service, no longer merely an adjunct to air passenger service.

Under current Commission regulations an air freight motor carrier holding authority to perform line-haul operations between specific airports may perform that service only to and from the airports themselves or the particular air freight terminals utilized by the air carriers in connection with the movement of air freight to or from the particular airports. Airport to airport authority does not now permit air freight to be transported by motor carrier directly from one airport to the ultimate consignee in the terminal area of the second airport. Instead, the line-haul carrier must deliver the freight to the involved air carrier at the second airport or its freight terminal. From that point a local carrier, operating within the exempt air terminal zone pursuant to section 203(b)(7a) of the Interstate Commerce Act and the Commission's regulations at 49 CFR 1047.40(a), makes final delivery.

Petitioner contends that the air terminal exempt zone is analogous to the commercial zone of a municipality in that it represents the territorial limits of the community depending on the airport for its transportation needs. Accordingly, it asserts that the implied authority concept permitting a line-haul carrier serving a municipality to serve all points within its commercial zone is equally applicable to and should be extended to the air terminal zone.

Petitioner states that motor carriers with the capability of transporting containerized air traffic are a major link between the "hub" and "feeder" airports throughout the United States. It believes that their service can be more responsive to the needs of the public for expedited service by being able to perform direct pickups and delivery. Petitioner avers that the relief sought is in the public interest because it would assertedly (1) encourage the development of intermodal land-air transportation in a manner contemplated by the National Transportation Policy, and (2) benefit the public directly by reducing circuitous mileage, conserving fuel, reducing transportation costs, and increasing the efficiency of air freight delivery.

SPECIFIC PROPOSAL

Petitioner proposes that the regulation at 49 CFR 1041.22(a) be amended to read as follows:

A certificate or permit issued to a motor carrier or property pursuant to Part II of the Interstate Commerce Act (49 U.S.C. 301 et. seq.) authorizing service at a named airport shall be construed as authorizing service in the transportation of freight having prior or subsequent movement by air at all points or places located within the air terminal area (as described in §1047.40 of this chapter) of the airport authorized to be served by the motor carrier.

Petitioner states that the intended purpose of the proposed amendment is to have authority to serve an airport include implied authority to serve all points within the air terminal area of that airport.

Oral hearings do not appear necessary at this time and none is contemplated. Anyone wishing to present its views and evidence, either in support of, or in opposition to, this proposal is invited to submit written data, views, or arguments.

Written materials submitted will be available for public inspection at the offices of the Interstate Commerce Commission, 12th & Constitution Avenue, NW., Washington, D.C., during regular business hours.

Notice of this matter will be given to the general public by depositing a copy of this notice in the Office of the Secretary of the Commission for public inspection, and by filing a copy with the Director, Office of the Federal Register.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-29967 Filed 10-23-78; 8:45 am]

[7035-01-M]

[Finance Docket No. 28861]

SOUTHERN RAILWAY CO. AND CONSOLIDATED RAIL CORP.

Joint Use Between Mt. Carmel, Wabash County, Ill., and Skelton, Gibson County, Ind.

Southern Railway Co. (Southern), P.O. Box 1808, 920 15th Street NW., Washington, D.C. 20005, represented by Nancy S. Fleischman, P.O. Box 1808, Washington, D.C. 20013 and Consolidated Rail Corp. (ConRail), Six Penn Center Plaza, Philadelphia, Pa. 19104, represented by Charles E. Mechem, Six Penn Center Plaza, Philadelphia, Pa. 19104 hereby give notice that on the 25th day of September 1978, they filed with the Interstate Commerce Commission at Washington, D.C., an application under section 5(2) of the Interstate Commerce Act for a decision approving and authorizing the joint use by Southern Railway Co. and Consolidated Rail Corp. of 4.46 miles of railroad line between Mt. Carmel in Wabash County, Ill. (MP 127.4), and Skelton in Gibson County, Ind. (MP 132.0).

ConRail now owns and operates the line, and Southern also operates over it. The application seeks authority for ConRail to sell the line to Southern and for both Southern and ConRail to continue to operate over the line. The purpose of the transaction is to permit Southern to gain control of maintenance on the line so that it may rehabilitate to Southern's standards a de-

teriorating bridge across the Wabash River. No effect upon service to the public or upon employees will result.

In the opinion of the applicants, the granting of the authority sought will not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969. In accordance with the Commission's regulations (49 CFR 1108.8) in Ex Parte No. 55 (Sub-4), *Implementation—National Environmental Policy Act, 1969*, 352 ICC 451 (1976), any protests may include a statement indicating the presence or absence of any effect of the requested Commission action on the quality of the human environment. If any such effect is alleged to be present, the statement shall indicate with specific data the exact nature and degree of the anticipated impact. See *Implementation—National Environmental Policy Act, 1969*, supra, at p. 487.

Interested persons may participate formally in a proceeding by submitting written comments regarding the application. Such submissions shall indicate the proceeding designation Finance Docket No. 28861 and the original and

two copies thereof shall be filed with the Secretary, Interstate Commerce Commission, Washington, D.C. 20423, not later than 45 days after the date notice of the filing of the application is published in the FEDERAL REGISTER. Such written comments shall include the following: The person's position, e.g., party protestant or party in support, regarding the proposed transaction; specific reasons why approval would or would not be in the public interest; and a request for oral hearing if one is desired. Additionally, interested persons who do not intend to formally participate in a proceeding but who desire to comment thereon, may file such statements and information as they may desire, subject to the filing and service requirements specified herein. Persons submitting written comments to the Commission shall, at the same time, serve copies of such written comments upon the applicant, the Secretary of Transportation and the Attorney General.

H. G. HOMME, JR.,
Acting Secretary.

[FR Doc. 78-29954 Filed 10-23-78; 8:45 am]

sunshine act meetings

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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Commodity Futures Trading Commission	1	Common Carrier—4—Briefing on unsolicited phone call inquiry.
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Federal Home Loan Bank Board	3	Common Carrier (See Public Notice No. 8519)—6—Assignment and transfer of radio authorizations in various services from American Television and Communications Corporation to Time Television and Communications, Inc.
Federal Reserve System	4, 5	Cable Television (See Public Notice No. 8519)—1—Transfer of control of two cable television relay service stations from American Television and Communications Corp. to the Industrial National Bank of Rhode Island (trustee).
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[6351-01-M]

1

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 11 a.m., October 27, 1978.

PLACE: 2033 K Street NW., Washington, D.C., 8th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Market surveillance matters.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

[S-2128-78 Filed 10-20-78; 11:50 am]

[6712-01-M]

2

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., Wednesday, October 25, 1978.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Special open Commission meeting.

MATTERS TO BE CONSIDERED:

Agenda, Item No., and Subject

Common Carrier—1—TAT-7 reconsideration (Dkt. 18875).

Common Carrier—2—Authorization to construct an earth station at Lake Placid, N.Y., for the 1980 Olympic Games.

Common Carrier—3—Modification of depreciation rates for C. & P. of Virginia and New England Telephone Co.

This meeting may be continued the following workday to allow the Commission to complete appropriate action.

Additional information concerning this matter may be obtained from the FCC Public Information Office, telephone 202-632-7260.

Issued: October 20, 1978.

[S-2133-78 Filed 10-20-78; 3:12 pm]

[6720-01-M]

3

FEDERAL HOME LOAN BANK BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: October 29, 1978, volume 43, No. 204, page 49107.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m., October 25, 1978.

PLACE: 1700 G Street NW., 6th floor.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Frank Bolling, 202-377-6677.

CHANGES IN THE MEETING: The following items have been added to the open portion of the meeting:

Consideration of regulations partially implementing the Financial Institutions Regulatory and Interest Rate Control Act of 1978: 1. NOW Accounts; and, 2. Keogh/IRA Account Insurance.

RONALD A. SNIDER,
Assistant Secretary.

[S-2136-78 Filed 10-20-78; 3:12 pm]

[6210-01-M]

4

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Sent to Federal Register on October 18, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., Wednesday, October 25, 1978.

CHANGES IN THE MEETING: Deletion of the following open item from the agenda:

Proposed revisions in the Condition and Income Reports required of Edge corporations and the foreign branches and foreign subsidiaries of U.S. commercial banks.

This matter will be rescheduled at a later time.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board, 202-452-3204.

Dated: October 19, 1978.

THEODORE E. ALLISON,
Secretary of the Board.

[S-2131-78 Filed 10-20-78; 11:50 am]

[6210-01-M]

5

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.

TIME AND DATE: 11 a.m., Friday, October 27, 1978.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Federal Reserve Bank and branch director appointments.

2. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve system employees.

3. Any agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board 202-452-3204.

Dated: October 19, 1978.

GRIFFITH H. GARWOOD,
Deputy Secretary of the Board.

[S-2132-78 Filed 10-20-78; 10:50 am]

[6750-01-M]

6

FEDERAL TRADE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: FR 43, October 17, 1978, page No. 47811.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., Friday, October 20, 1978.

CHANGES IN THE AGENDA: The Federal Trade Commission has deleted the item from the agenda of its previously announced open meeting of October 20, 1978, 10 a.m. Because this was the only item scheduled, the meeting has been canceled.

[S-2129-78 Filed 10-20-78; 11:50 am]

[6750-01-M]

7

FEDERAL TRADE COMMISSION

TIME AND DATE: 2 p.m., Thursday, October 26, 1978.

PLACE: Room 532 (open); Room 540 (closed) Federal Trade Commission Building, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580. STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions open to public:

(1) Oral argument in Pillsbury Co., et al., Docket No. 9091.

Portions closed to the public:

(2) Executive Session to discuss oral argument in Pillsbury Co., et al., Docket No. 9091.

CONTACT PERSON FOR MORE INFORMATION:

Ira J. Furman, Office of Public Information, 202-523-3830. Recorded Message: 202-523-3806.

[S-2130-78 Filed 10-20-78; 11:50 am]

[7020-02-M]

8

INTERNATIONAL TRADE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 48814, October 19, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., Tuesday, October 24, 1978.

CHANGES IN THE MEETING: The briefing noticed under agenda item No. 5 [Motorcycles from Japan (Inv. AA1921-187)—briefing] previously announced as open to the public, was closed to the public by a vote of a majority of the entire membership of the Commission.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth R. Mason, Secretary, 202-523-0161.

[S-2135-78 Filed 10-20-78; 3:12 pm]

[7600-01-M]

9

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION.

TIME AND DATE: 1 p.m., November 3, 1978.

PLACE: Room 1101, 1825 K Street NW., Washington, D.C.

STATUS: Because of the subject matter, it is likely that this meeting will be closed.

MATTERS TO BE CONSIDERED: Discussion of specific cases in the Commission adjudicative process.

CONTACT PERSON FOR MORE INFORMATION:

Ms. Neva Hayslett, 202-634-4015.

Dated: October 20, 1978.

[S-2134-78 Filed 10-20-78; 3:12 pm]

[8120-01-M]

10

TENNESSEE VALLEY AUTHORITY.

TIME AND DATE: 10:30 a.m., Thursday, October 26, 1978.

PLACE: Conference Room B-32, West Tower, 400 Commerce Avenue, Knoxville, Tenn.

STATUS: Open.

MATTERS FOR DISCUSSION: Norris Energy Demonstration—City of Norris will present proposal that TVA work with city to demonstrate new concepts in energy conservation and use and innovative land-use planning techniques to foster quality community development.

MATTERS FOR ACTION:

OLD BUSINESS

No. 1. Action on bids received in response to Invitation No. 553593 for indefinite quantity term contract for electrical terminals, connectors, lugs, tools, and accessories for Hartsville Nuclear Plant.

NEW BUSINESS

Purchase awards

1. Reg. No. 572845—Indefinite quantity term contract for metal culvert pipe for any TVA project or warehouse.

2. Reg. No. 824262—Furnish all necessary labor, tools, equipment and materials and construct office building for Division of Forestry, Fisheries, and Wildlife Development at Norris, Tenn.

3. Reg. No. 824100—Diesel generator fuel tanks for Hartsville and Phipps Bend Nuclear Plants.

4. Amendment to Contract 78T3-540503—Indefinite quantity term contract for computer and related services for Computing Services Branch.

5. Reg. No. 824717—Type PXJ insulated conductors for Bellefonte Nuclear Plant.

6. Rejection of bids received in response to Invitation No. 108149 for galvanized structural tower steel for various transmission lines.

7. Reg. No. 577555—IQT contract for complete line of new tires and tubes for any TVA project or warehouse.

Power items

1. Consolidation of funding authorization in connection with uranium exploration properties leased to TVA, located in Grand and Emery Counties, Utah.

2. Letter agreement with Central Electric Power Association covering change in arrangements for power supply to cooperative's proposed Lake, Mississippi Substation.

3. Letter agreement with Marshall-DeKalb Electric Cooperative covering arrangements for provision by distributor of a 46-13-kV substation near Horton, Ala.

Real property transactions

1. Filing of condemnation suits.

2. Grant of 19-year lease to Sevier County, Tenn., for public recreation affecting 286.5 acres of Douglas Reservoir land—tract XTDR-17L.

3. Grant of 30-year public recreation easement to Marshall County, Ala., Park and Recreation Board affecting 51.4 acres of Guntersville Reservoir land—tract XTGR-97RE.

4. Sale of 4.1 acres of phosphate land in Maury County, Tenn., at public auction—tract XPS-21.

Dated: October 19, 1978.

CONTACT PERSON FOR MORE INFORMATION:

John Van Mol, Director of Information, or a member of his staff can respond to requests for information about this meeting. Call 615-632-3257, Knoxville, Tenn. Information is also available at TVA's Washington Office, 202-566-1401.

[S-2127-78 Filed 10-20-78; 11:05 am]

**Register
for
Federal
Orders**

**TUESDAY, OCTOBER 24, 1978
PART II**



**DEPARTMENT OF
ENERGY**

**PROPERTY
MANAGEMENT**
Proposed Regulations

[3128-01-M]

DEPARTMENT OF ENERGY

[41 CFR Ch. 109]

PROPERTY MANAGEMENT

Proposed Regulations

AGENCY: Department of Energy.

ACTION: Proposed regulations.

SUMMARY: The Department of Energy (DOE) was established by the Department of Energy Organization Act (Pub. L. 95-91), which was made effective October 1, 1977, by Executive Order 12009, dated September 13, 1977 (42 FR 46267, Sept. 15, 1977). The Act consolidated in DOE various energy functions previously performed by several Federal agencies, so that Federal energy policy and programs would be effectively coordinated and administered. The Act transfers to, and vests in DOE the functions of the former Federal Energy Administration, the Energy Research and Development Administration, the Federal Power Commission (now an independent collegial body within DOE called the Federal Energy Regulatory Commission), and certain functions previously performed by the Interstate Commerce Commission, the Department of the Interior, the Department of Housing and Urban Development, the Department of the Navy, and the Department of Commerce. Under the Department of Energy Organization Act, each of the agencies or parts of agencies that became part of the DOE on October 1, 1977, has authority to continue to follow its formerly applicable policies and regulations until such policies and regulations are modified, superseded, or terminated. DOE is now proposing consolidated property management regulations that will bring each of the Department's constituent organizations under the umbrella of a single, uniform regulatory system.

DATE: Comments must be received on or before November 24, 1978.

ADDRESS: Comments should be addressed to the Department of Energy, Office of Public Hearing Management, Room 2313, Box VS, 2000 M Street NW., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

Mr. Francis Roche, Chief, Property and Equipment Management Branch, Procurement and Contracts Management Directorate, Room C-167, Washington, D.C. 20545, telephone 301-353-3703.

SUPPLEMENTARY INFORMATION: The Department of Energy Property Management Regulations (DOE-PMR's) are published as proposed reg-

ulations in this issuance of the FEDERAL REGISTER in accordance with the requirement of title V, Department of Energy Organization Act (Pub. L. 95-91) and the Administrative Procedure Act, as amended (5 U.S.C. 551 et. seq.). Under section 644 of the Department of Energy Organization Act, the Secretary of the Department is authorized to prescribe such procedural and administrative rules and regulations as he may determine necessary or appropriate to administer and manage the functions now or hereinafter vested in him.

In addition to the requirement for publication of the Property Management Regulations in the FEDERAL REGISTER, title V also provides that if the Secretary determines that a substantial issue of fact or law exists or that the regulations are likely to have a substantial impact on the Nation's economy or large numbers of individuals or businesses, an opportunity for oral presentation of views, data, and arguments shall be provided. For reasons set forth below, our preliminary view is that the proposed DOE-PMR's do not involve substantial issues of fact or law and that the regulations are unlikely to have a substantial impact on the Nation's economy or large numbers of individuals or businesses. Therefore, at this time, we do not propose to hold public hearings on the DOE-PMR's.

The preliminary view that public hearings are not required is based on the fact that the proposed DOE-PMR's primarily implement and supplement the Federal Property Management Regulations issued by the General Services Administration, which are published in the FEDERAL REGISTER and commented on by interested persons. Additionally, the proposed regulations are applicable only to Department of Energy direct Government operations and to operating and onsite service contractors under contract to the Department of Energy.

Interested persons are invited to participate by submitting data or views with respect to the DOE-PMR's. Comments should be identified on the outside envelope and on documents submitted with a designation "Proposed DOE-PMR's." Ten copies should be submitted. All comments will be available for public inspection at the Department of Energy Freedom of Information Reading Room, 2017 12th and Pennsylvania Avenue NW., Washington, D.C., between 8 a.m. and 4:30 p.m., Monday through Friday, except for Federal holidays.

All written comments received will be carefully assessed and fully considered prior to publication of the DOE-PMR's as final regulations. A final determination of whether there should be an opportunity for the presentation

of oral views will be made after an evaluation of the written comments on the DOE-PMR's themselves, and consideration of the views of those requesting an opportunity for oral presentations.

NOTE.—The Department of Energy has determined these proposed regulations to be nonsignificant since they implement and supplement the Federal Property Management Regulations issued by the General Services Administration and provide necessary internal guidance and management controls to comply with these regulations. Substantial public comment is not anticipated. The Department has also determined, since these proposed regulations are essentially being followed currently by the majority of Department of Energy activities, they will not result in impacts greater than \$100 million per year and a regulatory analysis under Executive Order 12044 is not required.

Dated: October 16, 1978.

WILLIAM P. DAVIS,
Deputy Director
of Administration.

It is proposed to revise the title of chapter 109 in title 41 to read "Department of Energy."

It is proposed to change chapter 109 as follows:

Subchapter A: Revised.
Subchapter B: Reserved.
Subchapter C: New.
Subchapter D: Reserved.
Subchapter E: New.
Subchapter F: No change.
Subchapter G: New part 109-38 and 109-39 are added.
Subchapter H: New.
Subchapter I: Reserved.
Subchapter J: New.

The proposed changes to chapter 109 are set forth below.

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AUTHORITY: Title V, Department of Energy Organization Act (Pub. L. 95-91); Administrative Procedure Act, as amended (5 U.S.C. 551 et seq.).

SUBCHAPTER A—GENERAL

PART 109-1—INTRODUCTION

Subpart 109-1.1—Regulation System

§ 109-1.100 Scope of subpart.
This subpart establishes a system and describes procedures for promulgating Department of Energy Property Management Regulations (DOE-PMR) 41 CFR Chapter 109, within the Federal Property Management Regulations system (FPMR), 41 CFR Chapter 101, as established by the General Services Administration (GSA). These regulations implement and supplement the FPMR's governing the acquisition, utilization, management, and disposition of personal property.

§ 109-1.100-50 Definitions.

As used in these regulations the following definitions apply:

- (a) "Heads of field offices" are the heads of any officially established departmental office located outside the Washington, D.C. metropolitan area.
- (b) "Direct operations" means operations conducted by DOE personnel.
- (c) Operating and onsite service contractors:

(1) Operating contractors are those which—

- (i) Manage Government-owned laboratories, production plants, and research facilities located on Government-owned or -leased sites, where the programs being conducted are considered of a long-term, continuing nature;
- (ii) Operate Government-owned facilities located on contractor-owned or -leased sites where the programs being conducted are of a long-term, continuing nature. An example of this category would be those contracts with universities for the operation of Govern-

ment-owned laboratories and facilities, located on university-owned sites, for the purpose of conducting long-term basic research programs; or

(iii) Are designated by the senior procurement official, Headquarters, or the head of a procuring activity to be subject to the provisions of these regulations. An example would be a major cost-reimbursement contract for construction on a Government-owned or -leased site.

(2) Onsite service contracts are those cost-reimbursement type contracts for the performance of services of a continuing nature for DOE at Government-owned or -leased sites.

(3) Single purpose contracts for the operation of process developmental units, pilot plants, and demonstration plants where the purpose is to demonstrate the viability of processes toward the goal of commercialization are not considered, unless designated, operating contracts in accordance with § 109-1.100-50(c)(1)(iii) for the purpose of this section.

(d) "Contractor" means operating or onsite service contractor or as designated in accordance with with § 190-1.100-50(c)(1)(iii).

§ 109-1.103-50 DOE-PMR temporary regulations.

(a) The Department of Energy Property Management Regulations system includes a temporary-type issuance which will be used when—

(1) The regulation will remain in effect for a specific temporary period of time or is for one-time application; or

(2) Time will not permit preparation and publication of the regulations in final codified form.

(b) As a general rule, temporary-type regulations having continuing application will be converted to permanent form within 180 days after publication.

§ 109-1.104 Publication and distribution of DOE-PMR.

§ 109-1.104-1 Publication.

The DOE-PMR will be published in the FEDERAL REGISTER and will appear in the Code of Federal Regulations as chapter 109 of Title 41, Public Contracts and Property Management. Loose-leaf publications will be distributed to DOE offices.

§ 109-1.104-2 Distribution.

The responsibilities and authorities for distribution of publications in the FPMR series are as follows:

(a) The Director of Procurement and Contracts Management—

- (1) Designates an official to serve as liaison with GSA;
- (2) Establishes and maintains distribution patterns; and

(3) Processes DOE-PMR Handbooks for final approval and publication.

(b) The Director of Administration—

(1) Distributes publications in accordance with established distribution patterns; and

(2) Provides additional support services as required.

(c) Heads of field offices—

(1) Provide Director of Procurement and Contracts Management, as necessary, with field office and contractor requirements;

(2) Forward one-time requests for additional copies of specific centrally distributed publications to the Office of Administrative Services, Headquarters (AD-473); and

(3) Distribute publications in accordance with established distribution patterns.

§ 109-1.105 Authority for DOE-PMR.

The DOE-PMR's are prescribed by the Secretary or his designee and the head of any DOE Headquarters organization having functional responsibility for the Regulations being prescribed, pursuant to the authority of the Department of Energy Organization Act of 1977, (42 U.S.C. 7101 et seq.), the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 471 et seq.), and FPMR 101-1.108.

§ 109-1.106 Applicability.

(a) The FPMR and this DOE-PMR apply to all direct operations.

(b) Unless otherwise provided in the appropriate part or subpart, contracting officers shall assure that the FPMR and DOE-PMR are applied to operating and onsite service contractors. The FPMR and DOE-PMR shall be used by contracting officers in their review, approval, administration or appraisal of such contractor operations.

§ 109-1.107 Consultation regarding DOE-PMR.

DOE-PMR's shall be fully coordinated with all departmental elements substantively concerned with the subject matter.

§ 109-1.108 Agency implementation and supplementation of FPMR.

(a) The DOE-PMR's shall include regulations deemed necessary to understand basic and significant departmental property management policies and procedures which implement, supplement, or deviate from the FPMR.

(b) Implementing procedures, instructions, and guides which are necessary to clarify or to implement the DOE-PMR may be issued by Headquarters or field organizations, providing the implementing procedures, instructions and guides—

(1) Are consistent with the policies and procedures contained in this regu-

lation as implemented and supplemented from time to time;

(2) To the extent practicable, follow the format, arrangement, and numbering system of this regulation; and

(3) Contain no material which duplicated, paraphrases, or is inconsistent with the contents of this regulation.

§ 109-1.109 Numbering of DOE-PMR.

(a) Where the DOE-PMR's implement the FPMR, the implementing part, subpart, section or subsection of the DOE-PMR will be numbered and captioned, to the extent possible, to correspond to the part, subpart, section, or subsection of the FPMR.

(b) Where the DOE-PMR's supplement the FPMR, the numbers 50 and up will be assigned to the parts, subparts, sections or subsections involved.

(c) Where the subject matter contained in a part, subpart, section, or subsection of the FPMR requires no implementation, the DOE-PMR will contain no corresponding part, subpart, section, or subsection number and the subject matter as published in the FPMR governs within the meaning of § 109-1.106.

§ 109-1.110 Deviation.

§ 109-1.110-2 Procedure.

(a) In individual cases, deviations from the FPMR and DOE-PMR may be authorized by the head of the Headquarters organization having functional responsibility. A supporting statement for each individual deviation, which indicates briefly the nature of the deviation, the reasons for such special action, and the Headquarters approval, shall be maintained by the Headquarters organization concerned.

(b) In classes of cases, requests for deviations from the FPMR and the DOE-PMR shall be forwarded to the head of the Headquarters organization having functional responsibility, and shall be accompanied by a supporting statement. Requests shall be considered on an expedited basis and coordination with Headquarters organizations will be obtained as appropriate. Requests involving the FPMR will be considered jointly by DOE and GSA, unless, in the judgment of the Headquarters organization having functional responsibility, circumstances preclude such joint effort. In such case, the organization having functional responsibility will approve such class deviations as determined to be necessary and notify GSA.

Subpart 109-1.50—Personal Property and Supply Management Program

§ 109-1.5000 Scope of subpart.

This subpart supplements the FPMR, states DOE personal property and supply management policy and

program objectives, and prescribes authorities and responsibilities of heads of Headquarters organizations, and heads of field offices exercising property management functions.

§ 109-1.5001 Policy.

It is DOE policy that a program for the management of Government personal property (sometimes referred to as personal property or as property) shall be established and maintained to meet program needs economically and efficiently and in accordance with applicable Federal statutes and Federal agency regulations.

§ 109-1.5002 Property and supply management program objectives.

The objectives of the DOE Property and Supply Management Program are to provide—

(a) A system for managing Government personal property in the custody or possession of DOE and its contractors; and

(b) Uniform principles, policies, standards, and procedures for economical and efficient management of Government personal property that are sufficiently broad in scope and flexible in nature to facilitate adaptation to local needs and various kinds of operations.

§ 109-1.5003 Definitions.

AS used in these regulations, the following definitions apply:

(a) "Government personal property"—

(1) Is property which is Government-owned or -rented or -leased from commercial sources in the custody of DOE or its contractors; and

(2) Is property of any kind or type except real property; records; special source materials, which includes source materials and special nuclear material, and those other materials to which the provisions of DOE Manual Part 7400 apply, such as deuterium, enriched lithium, neptunium 237 and tritium, and atomic weapons and by-product materials as defined in section II of the Atomic Energy Act of 1954, as amended; enriched uranium in stockpile storage; and petroleum being held in reserve in the Strategic Petroleum Reserve and the Naval Petroleum Reserve.

(b) "Personal property and supply management" means the implementation, development and administration of policies, programs and procedures for effective and economical receipt, storage, issue, use, control, physical protection, care and maintenance, disposal, determination of requirements and maintenance of related operating records, as appropriate, for Government personal property exclusive of the accounting records. It includes such established management func-

tions as: (1) Making special surveys and studies of practices and procedures and regular staff reviews and analyses of property requirements in budget estimates, financial plans, and reports, (2) furnishing staff assistance and guidance to DOE and contractor counterparts (3) assuring the maintenance of pertinent costs at reasonable levels, and (4) conducting periodic appraisals of performance.

§ 109-1.5004 Responsibilities and authorities.

§ 109-1.5004-1 The Director of Procurement and Contracts Management.

The Director of Procurement and Contracts Management—

(a) Develops and maintains departmental personal property policies, standards and procedures;

(b) Develops and publishes departmental regulations relating to personal property and supply management;

(c) Represents the Department with GSA and other agencies on matters relating to personal property and supply management;

(d) Submits departmental personal property and supply management reports to GSA, the Congress and other Federal agencies;

(e) Provides staff assistance to departmental organizations performing personal property and supply management functions;

(f) Conducts reviews and appraisals of departmental personal property and supply management functions;

(g) Prepares the departmental aircraft and motor vehicle budget; and

(h) Reviews and provides staff evaluation and support of budget proposals relating to stores inventories.

§ 109-1.5004-2 The Director of Administration.

The Director of Administration—

(a) Manages personal property for Headquarters organizations located in the Washington, D.C. metropolitan area for which he has been assigned property management responsibilities; and

(b) Exercises responsibilities cited in § 109-1.5004-3 as they relate to functions under his management control.

§ 109-1.5004-3 Heads of field offices and contracting officers.

Heads of field offices and contracting officers—

(a) Assure effective management of Government personal property in the custody of DOE and its contractors, consistent with applicable laws and regulations;

(b) Interpret departmental personal property management policies and procedures for their contractors and promote improved property management practices and controls;

(c) Arrange with contractors to establish effective administrative procedures, to the extent practicable and economical, which will insure adequate physical protection and control of Government personal property, proper utilization of Government personal property, adequate supply support of approved programs, and compliance with applicable laws and regulations;

(d) Assure that new contracts or modifications, extensions, or amendments to existing contracts contain provisions that will promote efficient and economical management of Government personal property in the custody or possession of the contractors;

(e) Review and approve personal property management policies, practices and procedures of contractors and assure that they are maintained in writing on a current basis consistent with the terms of the contract and pertinent DOE regulations;

(f) Authorize the use of Government personal property for purposes other than performance of official work of the U.S. Government only in accordance with applicable laws;

(g) Authorize loans of Government personal property to other Government agencies and to others for official purposes;

(h) Assure that DOE employees and contractors are aware that acts of theft, illegal possession, and unlawful destruction or use of Government personal property are violations punishable under Federal law, notwithstanding disciplinary measures taken under administrative policy;

(i) Assure that DOE employees and contractors are aware that every user of Government personal property is responsible for its physical protection and for reporting the loss, theft, destruction or damage of property;

(j) Apply personal property management regulations, instructions, standards, procedures, and practices as prescribed in the FPMR's and the DOE-PMR's;

(k) Assure that responsibility for an effective property and supply management program is clearly and definitely assigned to a responsible member or members of each staff; and

(l) Provide reports on property management activities as provided in these regulations.

§ 109-1.5004-4 Heads of Headquarters organizations.

Heads of Headquarters organizations will exercise responsibilities as described in these regulations for property management activities for which they have a programmatic responsibility.

§ 109-1.5005 Review of contractors' procedures and practices.

(a) Contracting Officers shall review Contractors' procedures and practices for control and management of property as soon as practicable after approval of the contract if the contractor is to use Government personal property. Further reviews shall be made as necessary.

(b) The type and frequency of reviews will depend on—

(1) The quantity and value of Government personal property to be furnished; and

(2) The period of time the property is to be used or consumed; that is, whether or not storage and subsequent issue are involved or the property will be issued or used on the job directly following receipt.

(c) Whether the review consists of a simple desk review of procedures or a full scale onsite appraisal shall be based on the amount of property involved, conditions of usage, storage, and other pertinent factors.

Subpart 109-1.51—Personal Property Management Standards and Practices

§ 109-1.5100 Scope of subpart.

This subpart provides general guidance on DOE standards and practices to be applied in the management of Government personal property.

§ 109-1.5101 Definition.

"Sensitive items" are those items of property which are considered to be susceptible to being appropriated for personal use or which can be readily converted to cash, for example: Firearms, portable photographic equipment, binoculars, portable tape recorders, portable calculators, and portable power tools.

§ 109-1.5102 Official use of property.

Property shall be used only in the performance of official work of the U.S. Government, except (a) in emergencies threatening loss of life or property, or (b) as otherwise authorized by law and approved by heads of organizations having property management responsibilities, or by the contracting officer.

§ 109-1.5103 Maximum use of property.

Property and supply management practices shall assure that the best possible use is made of property. Supplies and equipment provided for DOE work shall be generally limited to those items essential for carrying out the programs of DOE effectively. Adequate staff review shall be made of operating programs to coordinate and plan future supply activities and to assure against overstocking, waste, and improper use of property.

§ 109-1.5104 Loan of property.

(a) Property which would otherwise be out of service for temporary periods (and not excess) may be loaned to other DOE offices and contractors, other Federal agencies, and to others for official purposes. Such loans shall be covered by written agreements or memorandum receipts which shall include all terms of the loan (such as loan period, delivery time, method and payment of transportation, point of delivery and return, conditions of use, responsibilities of the borrower for condition of property on return, inspection requirements, etc.) that may be required to insure proper control and protect DOE's interest. The loan period should not exceed 1 year, but may be renewed.

(b) Requests for loan by foreign governments and other foreign organizations shall be submitted to the Office of Assistant Secretary for International Affairs, for approval, with a copy to the cognizant Headquarters program office.

§ 109-1.5105 Borrowing of property.

(a) Offices and contractors are encouraged to borrow property within DOE to further DOE programs. Property classified as "Equipment Held For Future Projects (EHFFP)" or as "In Standby" should be reviewed by those receiving availability inquiries for short-term loans (1 year or less). Borrowing of Government property from other Federal agencies is also encouraged when required for short periods of time. Such transactions shall be covered by written agreements which include all the terms of the transaction.

(b) In determining whether it is practical and economical to borrow property, consideration shall be given to suitability, condition, value, extent and nature of use, extent of availability, portability, cost of transportation, and other similar factors.

§ 109-1.5106 Control of property.

§ 109-1.5106-1 Identification marking of property.

(a) Identification marking of property by numbering may be used where it has been administratively determined to be sufficiently advantageous to justify the cost.

(b) All capitalized Government property shall be permanently marked to identify it as U.S. Government property. Other property susceptible to unauthorized personal use should be considered for marking for control purposes. Marking may be accomplished by any means which will produce a permanent marking and which is most adaptable to the particular item of property.

(c) To the extent practicable and economical, markings shall be removed prior to disposal outside of DOE, or additional markings may be added to indicate such disposal.

(d) Property which by its nature cannot be marked is exempted from this requirement. Where such Government property is in the custody of contractors it should not be commingled with contractor-owned property unless it is administratively determined by the contracting officer to be advantageous to the Government.

§ 109-1.5106-2 Segregation of property.

Ordinarily, provisions shall be made for the contractor to keep Government property segregated from contractor-owned property. Commingling of Government-owned and contractor-owned property may be allowed only when—

(a) The segregation of the property would materially hinder the progress of the work, i.e., segregation is not feasible for reasons such as small quantities, lack of space, or increased costs; and

(b) Control procedures are adequate, i.e., the Government property is specifically marked or otherwise identified as being Government property.

§ 109-1.5106-3 Physical protection of property.

Controls such as property pass systems, memorandum records, regular or intermittent gate checks, marking of tools, and perimeter fencing shall be established as required to prevent loss, theft, or unauthorized movement of property from the premises on which such property is located.

§ 109-1.5106-4 Control of sensitive items.

(a) Controls shall be established over the acquisition, storage, issue, use, and return of sensitive items of property. These controls should be applied with judgment and should take into consideration the dollar value of the items to be controlled and costs of administration.

(b) A list of sensitive items shall be maintained for items considered to require special controls before and after issue. Determination of specific sensitive items shall be a matter for management judgment at individual locations.

(c) Written procedures shall be established for control of sensitive items. Specific procedures to be considered for control before and after issue include—

(1) Approval of purchase requisitions for issue documents at an appropriate supervisory level prior to purchase or issue;

(2) Establishment of administrative controls in the central receiving and warehousing department. Such con-

trols could include extraordinary physical protection, guidance for receiving and warehousing personnel as to procedures for protection, and a current listing of sensitive items;

(3) Establishment and maintenance of appropriate property management records, including all necessary information for adequate functional control;

(4) Requirements for tagging and identification;

(5) Use of memorandum receipts or custody documents at time of assignment or change in custody;

(6) Establishment of custodial responsibilities describing—

(i) Need for extraordinary physical protection;

(ii) Requirement for prompt reporting of apparent loss, damage or destruction;

(iii) Requirement to return items in condition beyond economical repair to an appropriate organizational element;

(iv) Requirement for promptly reporting changes in custody or extended loans;

(v) Reminder of prohibition of use for other than official purposes, and penalties for misuse;

(vi) Requirement for effective physical and administrative control of sensitive items assigned for general use within an organizational unit as appropriate to the type of property and the circumstances; and

(vii) A clear definition of the extent of responsibility or financial accountability, depending on contractor policy.

(7) Requirement for annual physical inventory;

(8) Requirement for prompt and thorough investigation of losses;

(9) Requirement for an employee transfer or termination checkout procedure and examination and adjustment of records; and

(10) Reference to other property and supply management procedures which, through experience and independent audit, have demonstrated effective physical and administrative control over sensitive items.

§ 109-1.5106-5 Physical inventories.

(a) Physical inventories shall be conducted at all DOE and contractor locations. The physical inventory shall be conducted consistent with approved procedures and generally accepted accounting procedures.

(b) The frequency of physical inventories shall be as follows:

(1) Moveable capital equipment—not less frequently than every 2 years.

(2) Sensitive items—annually.

(3) Stores inventories—annually.

(4) Precious metals—semiannually.

(c) Adjustments will be made to the control records and all significant discrepancies shall be investigated.

(d) Full use should be made of accounting records and reports.

§ 109-1.5107 Retirement of property.

When government property is worn out, lost, stolen, destroyed, abandoned, or damaged beyond economical repair, it shall be listed on a retirement work order. A full explanation shall be supported by an investigation, if necessary, as to the date and circumstances surrounding loss, theft, destruction, abandonment, or damage. The retirement work order shall be signed by the responsible official initiating the report and reviewed and approved by an official at least one supervisory echelon above the official initiating the report.

§ 109-1.5108 Property belonging to others.

Procedures shall be established which will provide for no less attention to the management of property belonging to other Federal agencies in the possession or custody of DOE or its contractors than for DOE property.

§ 109-1.5109 Employee participation and development.

Full advantage shall be taken of suitable methods for stimulating employee participation and cooperation in carrying out an effective and economical program of property and supply management. Some examples of effective methods are (a) indoctrination of new employees and others who have access to or use property, (b)

the use of incentive award plans to promote interest, (c) the use of visual aids such as posters, plant publications, outdoor signboards, and displays to keep employees informed as to progress and to remind them of their responsibilities, and (d) training of employees in specialty fields.

§ 109-1.5110 Use of non-Government-owned property.

Personal property, title to which is vested in a DOE employee, an employee of a DOE contractor, or in any person or organization not under contract or subcontract to DOE, shall not be installed in, affixed to, or otherwise made a part thereof, of any Government-owned personal or real property.

§ 109-1.5148 Records and reports.

(a) Inventory records and reports will be maintained and will serve as a basis for: (1) Effecting maximum utilization of available property, including excess, (2) prompt identification and reporting of excess property, (3) maximizing effective physical protection of property, and (4) preparation of special and recurring reports. Full use will be made of accounting records and reports to avoid duplication.

(b) Property management reports which require input from the DOE field offices or from Headquarters organizations exercising property management responsibilities, and Financial Information Subsystems generated reports, are listed in § 109-1.5148-1.

§109-1.5148-1 Personal Property Management Reports

PERSONAL PROPERTY MANAGEMENT REPORTS

I. Property and Equipment

Report Title	Form No. (No. of Cys.)	Frequency	Submitted To	Due at HQ	Narrative Analysis Required	References	Comments
1. Utilization and Disposal of Personal Property Pursuant to Exchange/Sale Authority	Letter (1)	Annually	HQ PRPM	Nov. 30	No	FPMR 101-46.407 DOE-PMR 109-46.406	The annual Departmental report to GSA is submitted by HQ PRPM
2. Changes in Plant and Equipment and Accumulated Depreciation - Supporting Details	DOE Form CR-84-31 (3)	Annually	HQ CR	Sept. 30 + 32 work days	Yes	DOE Order 2200, Chapter XI	
3. Plant and Equipment by Facilities	DOE Form CR-84-34 (3)	Annually	HQ CR	Sept. 30 + 32 work days	Yes	DOE Order 2200, Chapter XI	
4. Plant and Equipment by Location	DOE Form CR-84-35 (3)	Annually	HQ CR	Sept. 30 + 32 work days	Yes	DOE Order 2200, Chapter XI	
5. Plant and Equipment Facilities in Standby and Maintenance Costs	DOE Form CR-85-1 (3)	Annually	HQ CR	Sept. 30 + 32 work days	Yes	DOE Order 2200, Chapter XI	
6. Utilization and Disposal of Excess and Surplus Personal Property	DOE Form CR-85-2 (3)	Annually	HQ CR	Sept. 30 + 32 work days	Yes	FPMR 101-43.4701 DOE-PMR 109-43.4701 DOE Order 2200, Chapter XI	The annual Departmental report to GSA (SF 121) is submitted by HQ PRPM
7. Excess Personal Property Furnished to Non-Federal Recipients	Letter	Annually	HQ PRPM	Nov. 30	No	FPMR 101-43.4701 DOE-PMR 109-43.4701	The annual Departmental report to GSA is submitted by HQ PRPM
8. Disposal of Foreign Excess Property	DOE Form CR-85-3 (3)	Annually	HQ CR	Sept. 30 + 32 work days	Yes	FPMR 101-43.4701 DOE-PMR 109-43.4701 DOE Order 2200, Chapter XI	The annual Departmental report to GSA is submitted by HQ PRPM
9. Summary of Excess Property Received from Other Agencies	DOE Form CR-85-4 (3)	Annually	HQ CR	Sept. 30 + 32 work days	No	DOE Order 2200, Chapter XI	
10. Annual Wastepaper Report		Annually	HQ PRPM	Oct. 30	No	40 CFR 246.100g	

\$109-1.5148-1

PERSONAL PROPERTY MANAGEMENT REPORTS

II. Supply

Report Title	Form No. (No. of Cys.)	Frequency	Submitted To	Due at HQ	Narrative Analysis Required	References	Comments
1. Direct Labor Costs of Stores Inventory Warehousing Activities	DOE Form CR-85-7 (3)	Annually	HQ CR	Sept. 30 + 32 work days	Yes	DOE Order 2200, Chapter XI	Information for the annual Supply Activity Report submitted to GSA by HQ PRPM
2. Precious Metals	Letter (1)	Annually	HQ PRPM	Oct. 30	No	FPMR 101-42.301-2 DOE-PHR 109-42.301-2	The annual Departmental report to GSA is submitted by HQ PRPM

III. Motor Vehicles

1. Agency Report of Motor Vehicle Data	SF 82	Annually	HQ PRPM	Sept. 30 + 21 work days	Yes	FPMR 101-38.1 DOE-PHR 109-38.100-1	The annual Departmental report to GSA (SF 82) is submitted by HQ PRPM
1a. Agency Report of Sedan Data	SF 82-d	Annually	HQ PRPM	Sept. 30 + 21 work days	Yes	FPMR/TR G-22 DOE-PHR 109-38.100-1	The annual Departmental report to GSA (SF 82d) is submitted by HQ PRPM
2. Supplemental (Motor Vehicle) Data Reports		Annually	HQ PRPM	Sept. 30 + 21 work days	No	DOE-PHR 109-38.100-1	
2a. Acquisitions and Disposals by Transfer	DOE-PHR 109-38.4950	Annually	HQ PRPM	Sept. 30 + 21 work days	No	DOE-PHR 109-38.100-1	
2b. Special Purpose Vehicles	DOE-PHR 109-38.4951	Annually	HQ PRPM	Sept. 30 + 21 work days	No	DOE-PHR 109-38.100-1	
2c. Age and Mileage Analysis	SF82-b DOE-PHR 109-38.4952	Annually	HQ PRPM	Sept. 30 + 21 work days	Yes	DOE-PHR 109-38.100-1	
3. Cross-Servicing Arrangements for Motor Vehicle Fuel and Oil	Letter	Semi-Annually	HQ PRPM	Oct. 10 April 10	No	GSA Bulletin G-36 DOE-PHR 109-38.53	The semiannual Departmental report to GSA is submitted by HQ PRPM

PROPOSED RULES

PERSONAL PROPERTY MANAGEMENT REPORTS

\$109-1.5148-1

Report Title	Form No. (No. of Cys.)	Frequency	Submitted To	Due at HQ	Narrative Analysis Required	References	Comments
4. Unused Passenger Vehicle Replacement Authorizations	Letter	Annually	HQ PRPM	June 15	No	DOE-PMR 109-38, 5101-5(b)	
5. Geographical Distribution of Motor Vehicles	Letter	Annually	HQ PRPM	Feb. 13	No	Department of Transportation	The annual Departmental report to DOT is submitted by HQ PRPM
6. Report of Exempted Motor Vehicles	Letter	On Request	HQ PRPM	On Request	Yes	FPMR 101-38, 607 DOE-PMR 109-38, 607	The requested Departmental report is submitted to GSA by HQ PRPM
7. Annual Plan for Acquisition of Fuel Efficient Passenger Automobiles	Letter	Annually	HQ PRPM	Nov. 1	No	Executive Order 12003, FPMR Temporary Bulletin G-32, DOE-PMR 109-38, 1305	The Departmental consolidated plan is submitted to GSA by HQ PRPM

IV. FIS Generated Reports

1. Analysis of Stores	DOE 84-20				Yes	DOE Order 2200, Chapter XI	Reports 1 and 2 provide data for the Departmental annual Supply Activity Report to be submitted to GSA (GSA 1473) by HQ PRPM Reference: FPMR 101-25.48 DOE-PMR 109-25.48
2. Summary of Current Use and Standby Stores Inventory Transactions	DOE 84-21				Yes	DOE Order 2200, Chapter XI	
3. Changes in Plant and Equipment and Accumulated Depreciation	DOE 84-30				No	DOE Order 2200, Chapter XI	
4. Completed Plant and Accumulated Depreciation by Type	DOE 84-32				No	DOE Order 2200, Chapter XI	
5. Equipment Held for Future Projects					Yes	DOE Order 2200, Chapter XI DOE-PMR 109-27, 5109	

SUBCHAPTER C—DEFENSE MATERIALS

PART 109-14—NATIONAL STOCKPILE

Sec.
109-14.000 Scope of part.

Subpart 109-14.1—Transfer of Excess Strategic and Critical Materials to the National Stockpile

109-14.103-1 General requirements of reporting.

AUTHORITY: Title V, Department of Energy Organization Act (Pub. L. 95-91); Administrative Procedure Act, as amended (5 U.S.C. 551 et seq.).

PART 109-14—NATIONAL STOCKPILE

§ 109-14.000 Scope of part.

This part implements and supplements FPMR Part 101-14, National Stockpile.

Subpart 109-14.1—Transfer of Excess Strategic and Critical Materials to the National Stockpile

§ 109-14.103-1 General requirements of reporting.

Holding activities shall submit reports of storage materials determined to be excess to their needs, through appropriate administrative channels, to the Procurement and Contracts Management Directorate (PR-221) for determination of Departmental requirements and, if appropriate, for further reporting to GSA as required by FPMR 101-14.103-1.

SUBCHAPTER E—SUPPLY AND PROCUREMENT

PART 109-25—GENERAL

Sec.
109-25.000 Scope of subchapter.
109-25.001 Scope of part.

Subpart 109-25.1—General Policies

109-25.101-1.50 Definitions.
109-25.101-3 Supply through consolidated purchase for direct delivery to use points.
109-25.109 Laboratory and research equipment.
109-25.109-1 Identification of idle equipment.
109-25.109-2 Equipment pools.

Subpart 109-25.3—Use Standards

109-25.302 Office furniture, furnishings and equipment.
109-25.302-1 Executive type office furniture and furnishings.
109-25.302-2.50 Filing equipment and supplies.
109-25.302-3 Electric typewriters.
109-25.304 Additional systems and equipment for passenger motor vehicles.
109-25.350 Use of furnishings and household goods in Government personnel quarters.
109-25.351 Furnishing of Government clothing and individual equipment to employees.

Subpart 109-25.4—Replacement Standards

109-25.403 Office machines.
109-25.405 Materials handling equipment.

Subpart 109-25.48—Reports

109-25.4800 Scope of subpart.
109-25.4800-50 Applicability.

PART 109-26—PROCUREMENT SOURCES AND PROGRAMS

109-26.000 Scope of part.
109-26.001-50 Applicability.

Subpart 109-26.2—Federal Requisitioning System

109-26.201 General.
109-26.205-2 Assignment of codes.

Subpart 109-26.4—Purchase of Items From Federal Supply Schedule Contracts

109-26.406 U.S. Government National Credit Card for use in obtaining service station deliveries and services.
109-26.406-1 General.

Subpart 109-26.5—GSA Procurement Programs

109-26.501 Purchase of new motor vehicles.

PART 109-27—INVENTORY MANAGEMENT

109-27.000 Scope of part.
109-27.001-50 Objectives.
109-27.001-51 Definitions.
109-27.001-52 Evaluation of stores inventory management.

Subpart 109-27.1—Stock Replenishment

109-27.102 Economic order quantity principle.
109-27.102-1 Applicability.

Subpart 109-27.2—Management of Shelf-Life Materials

109-27.202 Applicability.

Subpart 109-27.3—Maximizing Use of Inventories

109-27.302 Applicability.

Subpart 109-27.4—Elimination of Items From Inventory

109-27.402 Applicability.

Subpart 109-27.5—Return of GSA Stock Items

109-27.500-50 Policy.

Subpart 109-27.50—Inventory Management Policies, Procedures and Guidelines

109-27.5001 Scope of subpart.
109-27.5002 Stock control.
109-27.5002-1 General.
109-27.5002-2 Criteria.
109-27.5002-3 Construction inventories.
109-27.5003 Guide levels for construction inventories.
109-27.5004 Sub-stores.
109-27.5005 Shop, bench, cupboard or site stock.
109-27.5006 Standardization of stores items.
109-27.5007 Stores catalogs.
109-27.5008 Physical inventories.
109-27.5008-1 Procedures.
109-27.5008-2 Inventory adjustments.
109-27.5009 Control of drug substances and potable alcohol.
109-27.5010 Containers returnable to vendors.
109-27.5011 Identification marking of metals and metal products.
109-27.5011-1 General.
109-27.5011-2 Exception.
109-27.5011-3 Federal standards applicable to marking.

Subpart 109-27.51—Management of Equipment Held for Future Projects

109-27.5100 Scope of subpart.
109-27.5101 Definition.
109-27.5102 Other exclusions.
109-27.5103 Objective.
109-27.5104 Storage.
109-27.5105 Retention.
109-27.5106 Justification and review procedures.
109-27.5107 Field organization review.
109-27.5108 Utilization.
109-27.5109 Reports.

Subpart 109-27.52—Management of Spare Equipment

109-27.5200 Scope of subpart.
109-27.5201 Definition.
109-27.5202 Exclusions.
109-27.5203 Classification.
109-27.5204 Management policy.

PART 109-28—STORAGE AND DISTRIBUTION

109-28.000 Scope of part.
109-28.001-50 Policy.
109-28.001-51 Storage guidelines.

PART 109-29—FEDERAL SPECIFICATIONS AND STANDARDS

109-29.000 Scope of part.

Subpart 109-29.1—General

109-29.103 Availability of Federal standardization documents.

PART 109-30—FEDERAL CATALOG SYSTEM

109-30.000 Scope of part.
109-30.000-50 Applicability.

Subpart 109-30.5—Maintenance of the Federal Catalog System

109-30.503 Maintenance actions required.

PART 109-32—GOVERNMENTWIDE AUTOMATED DATA MANAGEMENT SERVICES

109-32.000 Scope of part.

Subpart 109-32.3—Reutilization of Automatic Data Processing Equipment and Supplies

109-32.300-50 Scope of subpart.
109-32.302-50 Reassignment of ADPE, and use and reutilization of excess ADPE within DOE.
109-32.303 Reutilization of excess ADPE.
109-32.303-0.50 Reporting excess or exchange/sale ADPE within DOE.
109-32.303-1 Designation of agency ADPE point of contact.
109-32.303-50 Transfer of ADPE within DOE.
109-32.304 Availability list.
109-32.306 Requests for transfer of excess ADPE or exchange/sale ADPE.

Subpart 109-32.47—Reports

109-32.4700 Scope of subpart.
109-32.4702 Reporting excess or exchange/sale ADPE.

AUTHORITY: Title V, Department of Energy Organization Act (Pub. L. 95-91); Administrative Procedure Act, as amended, (5 U.S.C. 551, et seq.).

PART 109-25—GENERAL

§ 109-25.000 Scope of subchapter.

This subchapter implements and supplements FPMR Subchapter E, Supply and Procurement.

§ 109-25.001 Scope of part.

This part implements and supplements FPMR Part 101-25, General, and provides cross-references to the DOE Procurement Regulations (DOE-PR) where appropriate.

Subpart 109-25.1—General Policies

§ 109-25.101-1.50 Definitions.

As used in this subpart, the following definitions apply:

(a) "Equipment" consists of those items having an anticipated service life of 1 year or more regardless of use or source of funding.

(b) "Equipment pool" is a formally designated collection of equipment, generally functionally associated, which is available for loan or temporary use. The pool may be a physical collection of equipment or may be a record system which provides identification, location and availability information on equipment available for loan or temporary use.

(c) "Equipment in storage" is all equipment not in use, whether stored in formal storage areas, stored in or adjacent to work areas, held for future projects, or retained in standby or abandoned facilities.

§ 109-25.101-3 Supply through consolidated purchase for direct delivery to use points.

See DOE-PR 9-5.5206-19, Procurement of gas masks and canisters.

§ 109-25.109 Laboratory and research equipment.

(a) The provisions of FPMR 101-25.109 and § 109-25.109 shall apply to all types of equipment and not be limited to laboratory and research equipment.

(b) The provisions of FPMR 101-25.109 and § 109-25.109 apply to all DOE field offices and contractors, and are not limited to Federal laboratories.

§ 109-25.109-1 Identification of idle equipment.

(a) See § 109-25.109(b).

(b) As a minimum, management walk-through inspections shall be scheduled to provide for coverage of all operating and storage areas at least once every 2 years to identify idle and unneeded equipment. The frequency of management walk-through inspections may vary with the operation or area involved. A report of walk-throughs conducted, including participants, areas covered, findings, recommendations, and results achieved,

shall be submitted to the head of the laboratory or other facility involved. Equipment identified as idle and unneeded shall be redeployed, re-assigned, placed in equipment pools or declared excess, as appropriate.

(c) In accordance with FPMR 101-25.109-1(c), members of management walk-through inspection teams should be appointed by the head of the laboratory or other DOE or contractor facility.

(d) Heads of field offices and contracting officers or their designated representatives shall periodically review walk-through procedures and practices of organizations under their jurisdiction to evaluate their effectiveness. This review should include actual walk-through inspections of representative DOE or contractor activities.

§ 109-25.109-2 Equipment pools.

(b) Equipment pools shall be established where practicable to obtain optimum utilization of equipment. The number and types of pools to be established will depend upon local circumstances. In addition to those provided in FPMR 101-25.109-2, factors to be considered are types of equipment, number and location of potential users and distances involved.

(c) Surveys of equipment holdings should be conducted periodically to determine those items which are suitable for pooling. Criteria for placing an item in a pool should include (but not be limited to) the following: The item is suitable for use by more than one individual or group; its use is intermittent rather than full time; it has a degree of portability; and, it has sufficient cost or value to merit controlling. It is anticipated that items pooled would vary from one activity to another due to local conditions, and each activity should develop its own criteria for items to be pooled. Items to be considered for pooling include (but are not limited to) certain types of measuring and recording equipment, pumps, electric motors, photographic equipment, portable tools, microscopes, portable radios, power supplies, amplifiers, business machines, radiation detection instruments, and construction and automotive equipment. Where feasible, equipment pools should be combined with existing calibration and maintenance service to foster use and control of pooled equipment.

(d) Records of usage shall be maintained to permit the evaluation of need for quantities and types of equipment in pools. Reviews of usage should be conducted periodically (at least annually) to eliminate items which are no longer required. Heads of field offices and contracting offices shall require laboratories or other DOE or contractor facilities to submit

to them annually the report on the use and effectiveness of equipment pooling required by FPMR 101-25.109-2(d).

(e) Heads of field offices and contracting officers shall require periodic independent reviews of equipment pool operations as required by FPMR 101-25.109-2(e).

Subpart 109-25.3—Use Standards

§ 109-25.302 Office furniture, furnishings, and equipment.

(a) The criteria contemplated in FPMR 101-25.302 shall be established by the Director of Administration for the DOE Headquarters, and heads of field offices shall establish criteria for their offices, consistent with FPMR 101-25.302-1 and this subpart. Office furniture, furnishings, and equipment shall be limited to that required for immediate needs, considering such factors as ordering lead time, potential emergency needs and economical ordering quantities. Items used only occasionally should be pooled within an office when and as necessary. Requirements shall be met to the fullest extent practicable and economical from available excess or by rehabilitation or repair. A distinction should be made between the requirements of organizational elements concerned with purely administrative functions and those of a technical, scientific, or specialized nature.

(b) Contractors should be encouraged to limit executive-type furniture and furnishings to contractor personnel who organizationally are in positions that are similar or comparable to DOE positions authorized to use executive type office furniture as provided in FPMR 101-25.302-1, when such action will effect economy without decreasing efficiency.

§ 109-25.302-1 Executive type office furniture and furnishings.

The Director of Administration for Headquarters activities and heads of field offices or their designees are authorized to make the determination contemplated by FPMR 101-25.302-1.

§ 109-25.302-2.50 Filing cabinets and equipment.

In addition to the use standards prescribed in FPMR 101-25.302-2, the following standards are applicable:

(a) Filing equipment:

(1) Letter-size cabinets shall be used for letter-size records. When legal- and letter-size records are interfiled and less than 20 percent are legal-size, the legal-size papers are to be folded and the entire collection placed in letter-size cabinets. When more than 20 percent of the records to be filed consist of legal-size papers, legal-size cabinets may be used.

(2) Cabinet types appropriate for use in DOE:

(i) General purpose cabinets (noninsulated and nonsecurity) are used for unclassified records. General purpose cabinets equipped with a key lock may be used to house unclassified sensitive records requiring access restrictions. Key lock cabinets are not tamper proof nor do they meet security standards for the protection of classified material.

(ii) Security cabinets are equipped with a three-way combination lock and are designed to provide the protection required for storage of classified records.

(iii) Insulated cabinets designed to protect their contents from fire shall be used for irreplaceable records having an unusual importance or major value when stored in non-fire-resistant structures. Insulated cabinets shall not normally be used in fire-resistant buildings or structures equipped with fire detection devices, an approved sprinkler system or a connection to a source of adequate fire department response. Buildings equipped with automatic sprinkler systems generally are considered to provide adequate protection for records outside the immediate area of fire origin. Where records are considered irreplaceable, and duplicate copies are not available at another location, insulated cabinets may be required for primary fire protection.

(3) Shelf files should be considered instead of filing cabinets for file collections of 20 or more cubic feet because they provide a greater concentration of files per square foot of floor space at less cost. Shelf files accommodate with equal facility almost all varieties of files from those arranged by number or name to subjectively arranged correspondence files.

(4) The metal transfer case, a single file drawer enclosed as a complete unit, may be bolted together to form stacks of any convenient height. Transfer case are not recommended for general office use, but may be used in inactive storage areas or in offices where usage may be of relatively short term, such as field construction sites.

(5) Such items as lateral files (as used in the office landscaping concept), hanging files, safes, map files, film cabinets (both X-ray and microfilm), and visible files are special purpose equipment designed to fulfill specific filing requirements. Each potential application of special purpose equipment should be fully evaluated prior to purchase.

(6) The proposed use of power files requires a cost-benefit study due to the extraordinary cost of this equipment. This study must include an analysis of various alternatives to the application in addition to any benefits

to be derived from its procurement. All such benefits accruing to the agency and other information documenting the decision to obtain this equipment must be made a matter of record.

(b) To attain the maximum use of low-cost filing equipment such as shelf files for housing collections of classified records, as well as increased utilization of manpower, consideration should be given to the use of security-approved vaults or vault-type rooms in lieu of acquiring additional security cabinets.

§ 109-25.302-3 Electric typewriters.

The Director of Administration for Headquarters and heads of field offices or their designees are authorized to approve exceptions to the criteria contained in FPMR 101-25.302-3.

§ 109-25.304 Additional systems and equipment for passenger motor vehicles.

(a) If an item is determined to be essential and the guidelines in FPMR 101-25.304 cannot be met, or the required item is not shown in Federal Standard 122, requisitions, accompanied by supporting justifications, shall be submitted to the Procurement and Contracts Management Directorate (PR-221), for further coordination with the Commissioner, Federal Supply Service, General Services Administration, prior to procurement.

(b) See FPMR 101-26.501, "Purchase of new motor vehicles," and DOE-PR 9-5.5201-2, "Consolidated purchase of new vehicles by General Services Administration."

§ 109-25.350 Use of furnishings and household goods in Government personnel quarters.

The Director of Administration for Headquarters and heads of field offices and other contracting officers have the authority to authorize the use of furnishings and household goods in Government personnel quarters.

§ 109-25.351 Furnishing of Government clothing and individual equipment to employees.

(a) Government-owned clothing and individual equipment may be furnished employees under the circumstances indicated below. Care should be exercised to avoid the purchase and furnishing of clothing and individual equipment to be fitted to an employee who may soon be separated from service or permanently assigned to other duties.

(b) Special clothing and individual equipment for the protection of personnel may be furnished employees. Protection as used in this subpara-

graph means protection from physical injury or occupational disease.

(c) Articles of clothing and individual equipment may be furnished employees when the items are such that the employee could not reasonably be required to furnish them as a part of their personal clothing and equipment necessary to enable them to perform the regular duties of the position to which they are assigned or for which their services were engaged.

(This section does not apply to provision of uniforms or uniform allowances under the Federal Employees Uniform Allowances Act of 1954, as amended.)

Subpart 109-25.4—Replacement Standards

§ 109-25.403 Office machines.

The Director of Administration for Headquarters and heads of field offices or their designees are authorized to approve replacement of office machines under the conditions cited in FPMR 101-25.403(c).

§ 109-25.405 Materials handling equipment.

The Director of Administration for Headquarters, heads of field offices and other contracting officers or their designees are authorized to approve replacement of materials handling equipment under the conditions cited in FPMR 101-25.405(b).

Subpart 109-25.48—Reports

§ 109-25.4800 Scope of subpart.

This subpart supplements information concerning the reporting of supply management data to GSA as contained in FPMR 101-25.48, 101-25.49, 101-25.4902-1473, and 101-25.4902-1473-1.

§ 109-25.4800-50 Applicability.

The provisions of FPMR Part 101-25.48 and 101-25.49 and this subpart apply only to those DOE direct operations and contractors controlling Government-owned stores inventories. However, based on an agreement with GSA, the DOE supply activity report is prepared at Headquarters from supply management data available in DOE's financial reports and is sent to GSA by the director of Procurement and Contracts Management. Therefore, no additional reports are required from those field organizations or contractors reporting under the DOE financial reporting system. Those activities with stores operations which do not report under the DOE financial reporting system shall submit supply activity reports to the Procurement and Contracts Management Directorate (PR-221) by November 15 for inclusion in the departmental report.

PART 109-26—PROCUREMENT SOURCES AND PROGRAMS**§ 109-26.000 Scope of part.**

This part implements and supplements FPMR Part 101-26, procurement sources and programs.

§ 109-26.001-50 Applicability.

FPMR Part 101-26 and this part are applicable to contractors to the extent that Government supply sources are made available. For DOE policy on the use of Government supply sources by contractors, see DOE-PR Part 9-5 and 9-50.5.

Subpart 109-26.2—Federal Requisitioning System**§ 109-26.201 General.**

The GSA Handbook entitled "FED-STRIP Operating Guide" and revisions thereto, as discussed in FPMR 101-26.201, are distributed within DOE based on the standard distribution pattern established by the Procurement and Contracts Management Directorate. Requests for additional copies or a change in the distribution pattern should be coordinated with the local DOE publications control office.

§ 109-26.205-2 Assignment of codes.

Applications for FEDSTRIP activity address codes and contractor authorizations for use of GSA supply sources shall be forwarded to the Procurement and Contracts Management Directorate (PR-221) for review and further processing to GSA for assignment.

Subpart 109-26.4—Purchase of Items From Federal Supply Schedule Contracts**§ 109-26.406 U.S. Government National Credit Card for use in obtaining service station deliveries and services.****§ 109-26.406-1 General.**

The Director of Administration and heads of field offices or their designees may authorize the use of U.S. Government National Credit Cards as contemplated in FPMR 101-26.406-1.

Subpart 109-26.5—GSA Procurement Programs**§ 109-26.501 Purchase of new motor vehicles.**

See DOE-PR 9-5.5201-2, "Consolidated purchase of new vehicles by General Services Administration."

PART 109-27—INVENTORY MANAGEMENT**§ 109-27.000 Scope of part.**

This part implements and supplements FPMR Part 101-27, Inventory Management, but excludes atomic weapons or byproducts and source or special nuclear materials as defined in

the Atomic Energy Act of 1954, as amended, enriched uranium in stockpile storage, and petroleum held in reserve in the strategic petroleum reserve and the naval petroleum reserve.

§ 109-27.001-50 Objectives.

Necessary inventories shall be established and maintained at reasonable levels, consistent with program requirements. They shall be managed and controlled in the most practicable and economic manner consistent with program needs, applicable laws and regulations and the following objectives:

- (a) Provide materials and supplies as needed to meet DOE requirements.
- (b) Maintain reasonable inventory levels.
- (c) Provide adequate safeguards for protection.
- (d) Maintain adequate quantity controls for effective management over all inventories, including those not under financial controls.
- (e) Assure maximum efficient utilization and avoid waste.
- (f) Maintain an economical operation.
- (g) Standardize inventories to the greatest extent practicable.

§ 109-27.001-51 Definitions.

As used in this part the following definitions apply:

- (a) "Construction inventories" are supplies, materials, and parts held for exclusive use on construction projects.
- (b) "Economic order quantity (EOQ)" means the size of the order which produces a level at which the combined costs of procuring and carrying inventory are at a minimum.
- (c) "Expensed inventories" are items for which the cost is charged to operations and are not under financial control.
- (d) "Inventories" are stocks of stores, construction, special reactor and other special materials, supplies, and parts used in support of DOE programs.
- (e) "Inventory level," usually expressed in the number of months supply on hand based on anticipated usage, is the maximum amount of supplies authorized to be on hand and due-in less any amount dueout.
- (f) "Inventory management" means the effective use of methods, procedures and techniques for recording, analyzing, evaluating, adjusting, and regulating inventories in accordance with established policy. The following related functions are included:

- (1) Providing adequate protection against misuse, theft, and misappropriation.
- (2) Providing proper analyses of quantities to determine their turnover so that only minimal obsolescence will be encountered.

(3) Providing accurate analyses of quantities to determine requirements and adequate inventory levels to meet program schedules.

(4) Providing adequate and accessible storage facilities and services based upon analyses of program requirements so that a minimum and economical amount of time is required to service the program.

(g) "Other special materials" include precious metals and other rare materials having a very high monetary value in relation to volume or weight, special barrier materials, and any others that have been specifically approved by the controller.

(h) "Physical inventory" means the process of counting the quantities of items on hand and reconciling quantities counted with the quantities shown on control records.

(i) "Quantity control" means the management of inventories through control of levels, determination of requirements, and replenishment of stock.

(j) "Safety stock" is that portion of inventories under stock control carried for protection against stock depletion due to an increase in demand or when lead time is greater than anticipated.

(k) "Shop, bench, cupboard, or site stock" is a collection or store of materials located at or near the point of use.

(l) "Special reactor materials" include special materials approved for research and for use in reactors but generally available through the usual channels in sufficient quantity because of limited commercial production applications.

(m) "Standardization" is the reduction of stores inventories to the least practicable variety of sizes, shapes, and materials compatible with program needs.

(n) "Stock record" is a device for collecting, storing, and providing historical data on recurring transactions for each line item of inventory. The stock record of a line item may be a visible register of transactions recorded by hand or by machine for that item, or it may be the input, output, stored data, or the corresponding print-out of such data representing transactions on the item in an electronic data processing system.

(o) "Stores catalog" means a listing of stock items for use in requisitioning supplies and materials.

(p) "Substore" is a geographically removed part of the main store's operation conducted as a subordinate element of it and subject to the same management policies and inventory controls.

§ 109-27.001-52 Evaluation of stores inventory management.

(a) Comparison of investment in stores inventories to annual issues shall be made to assure that minimum inventories are maintained for the support of programs. This comparison may be expressed either as a turnover ratio (issues divided by dollar value of inventory) or in the average number of months' supply on hand. Turnover or number of months' supply is calculated only on "current-use" (for issue) inventory.

(b) Performance goals, in terms of months' investment or turnover ratio, are established for each store using activity and shall take into account the application of EOQ and other management practices. The evaluation of stores inventory management at each level shall take into account the current number of months' investment or turnover ratio, particularly in relation to the goal established for each such activity.

Subpart 109-27.1—Stock Replenishment

§ 109-27.102 Economic order quantity principle.

§ 109-27.102-1 Applicability.

Procedures and practices shall be established for replenishment of stock items having recurring demands to minimize costs involved. Guidelines for implementing the EOQ principle of stock replenishment are described in the GSA Handbook, "The Economic Order Quantity Principle and Application," issued by the General Services Administration. When considered more suitable, contractors may use any of the other generally accepted approaches to EOQ.

Subpart 109-27.2—Management of Shelf-Life Materials

§ 109-27.202 Applicability.

Procedures and practices shall be established for managing shelf life items to minimize loss and insure maximum use prior to deterioration. FPMR 101-27.2 prescribes principles and objectives for such a program. When considered more suitable, contractors may use any other generally accepted approach to the management of shelf life items.

Subpart 109-27.3—Maximizing Use of Inventories

§ 109-27.302 Applicability.

Procedures and practices shall be established for maximizing use of inventories. FPMR 101-27.3 prescribes policies and procedures to assure maximum use of inventories based upon recognized economic limitations. When considered more suitable, contractors may use any other generally

accepted approach to maximizing use of inventories.

Subpart 109-27.4—Elimination of Items From Inventory

§ 109-27.402 Applicability.

Procedures and practices shall be established for eliminating from inventory items that can be obtained more economically from readily available sources on a timely basis. FPMR 101-27.4 provides policies and procedures for such a program. When considered more suitable, contractors may use other generally accepted approaches to determine which items should be retained in inventory.

Subpart 109-27.5—Return of GSA Stock Items

§ 109-27.500-50 Policy.

Procedures and practices shall be established to provide for the return of GSA stock items for credit when such action is feasible and economical and consistent with DOE program needs.

Subpart 109-27.50—Inventory Management Policies, Procedures, and Guidelines

§ 109-27.5001 Scope of subpart.

This subpart supplements FPMR Part 101-27 by providing additional policies, principles and guidelines for the economical and efficient management of inventories in support of DOE programs.

§ 109-27.5002 Stock control.

§ 109-27.5002-1 General.

Stock control shall be maintained on the basis of stock record accounts of inventories on hand, on order, received and issued, and supported by proper documents in evidence of these transactions. Stock record accounts shall be susceptible to review and inspection.

§ 109-27.5002-2 Criteria.

Effective quantity control shall be maintained over inventories not under financial control. Ordinarily, when such items are warehoused or stored for an extended period (generally 90 days or more), the controls should include stock cards, bin cards, or other suitable records showing usage and quantities on hand. Bench or cupboard stocks at individual work stations may sometimes temporarily exceed 90 days' requirements with justification, and it is not intended that these be subjected to quantity control stock records.

§ 109-27.5002-3 Construction inventories.

Stock control for construction inventories shall be maintained by the regular checking of individual items to assure that the quantities ordered plus amounts on hand do not exceed current job requirements. To test the ef-

fectiveness of such checks, they should be supplemented with DOE reviews of inventory items on a selective basis at approximately the 25 percent, 50 percent, and 75 percent construction completion stages. Undelivered portions of purchase orders, which these checks and reviews indicate are not needed to complete the project, should be canceled.

§ 109-27.5003 Guide levels for construction inventories.

To insure that inventories maintained for construction programs and activities are reasonable, the following standards are established as guides (variations may be used where it is established by field organizations that they will more effectively or economically assure that inventory levels are held to the amounts required to complete the construction project):

(a) Ordinary construction materials and supplies readily available from commercial sources and not available from Government excess stocks permit phasing of deliveries and cancellation of undelivered quantities that may prove excess to project requirements. The onhand inventory of such materials generally should not exceed a 3 or 4 months' supply at the anticipated usage rates.

(b) Ordinary construction materials and supplies readily obtainable from Government excess stocks should be procured only in the amounts estimated to complete the construction project.

(c) Items obtained in bulk quantities that do not lend themselves to direct charge treatment, and which are obtainable only by special manufacture or fabrication, should be limited to the estimates of requirements to complete the project as determined by a takeoff from plans and specifications, except as outlined in paragraph (d) of this section.

(d) Inventory levels in excess of estimates to complete the project should be confined to items so unusual in character or unique to the DOE program that they are obtainable only by special manufacture and will be required for maintenance purposes or for operation of the completed plant.

§ 109-27.5004 Sub-stores.

(a) Sub-stores shall be established when necessary in isolated or remote locations to expedite delivery of materials and supplies to the users, serve emergencies, provide economy in transportation, reduce shop and site stocks, and enable stores personnel to assist personnel in obtaining materials and supplies as needed.

(b) Items stored for issue in the sub-stores shall be treated as inventory items for control and reporting purposes. Stock records shall be integrat-

ed with central stock records so that the total amount on hand of any item at all locations is known.

§ 109-27.5005 Shop, bench, cupboard, or site stock.

(a) Shop, bench, cupboard, or site stocks are an accumulation of small inventories of fast-moving materials at the point of use. Normally, these inventories are expensed. However, when stocks of such inventories are not consumed or do not turn over in a reasonable period of time, which normally should not exceed 30 to 90 days, these items should be subject to the required physical controls and recorded in the proper inventory account.

(b) Care shall be exercised to prevent excessive accumulation of inventories at such points. As a control measure, requisitions should be screened against issue data as reflected in stock records at the supply point. Also, work orders, retirement notices, minor construction projects, maintenance programs, and research and experimental projects, involving removal and dismantling should be reviewed and screened to prevent excessive inventories at point of use. However, the most effective control at point of use may be effected by administrative action through visual examination of quantities on hand, and close supervisory control and training of persons who requisition materials and supplies.

§ 109-27.5006 Standardization of stores items.

Stores items shall be standardized to the greatest extent practicable, taking into consideration the minimum requirements of the users, the need to follow good purchasing practices, the limitations of competitive bidding in specifying proprietary items, the availability of excess, and other limiting factors. In standardizing stores items, there should be close coordination among the supply, planning, and user groups.

§ 109-27.5007 Stores catalogs.

A suitable stores catalog for customer use in requisitioning stores items shall be established for each stores operation. Exceptions to this requirement are authorized where establishment of a catalog is impracticable or uneconomical because of small total value or number of items involved, or temporary need for the facility. To minimize the need for revision, catalog appendices may be used to show standard or average unit prices and various locations of items. Revisions should be made at reasonable intervals.

§ 109-27.5008 Physical inventories.

§ 109-27.5008-1 Procedures.

The following procedures shall be established for taking physical inventory of stocks subjected to quantity controls as well as those under financial control:

(a) Completing an inventory at least once a year.

(b) Reconciling quantities shown by inventory with the stock record cards.

(c) Preparing a report evaluating the effectiveness of inventory control, projection methods, records management, and showing debit and credit adjustments made.

§ 109-27.5008-2 Inventory adjustments.

(a) Discrepancies between physical inventories and stock records shall be adjusted and the supporting adjustment records shall be reviewed and approved by a responsible official at least one supervisory echelon above the supervisor in charge of the warehouse or storage facility. Items on an adjustment report which are not within reasonable tolerances for particular items shall be thoroughly investigated before approval.

(b) Such inventory adjustment reports, when properly approved, support credits to the stock record cards and financial inventory accounts. Adjustment reports shall be retained on file for inspection and review.

§ 109-27.5009 Control of drug substances and potable alcohol.

(a) This section provides policies and procedures for the management of drug substances and potable alcohol.

(b) The term "controlled substance" means any drug or substance which has been assigned a "Bureau of Controlled Substance Code Number" as published in 21 CFR Part 1308—Schedule of Controlled Substances.

(c) Effective procedures and practices shall be established for the management and physical security of controlled substances and potable alcohol to the point of use. Such procedures shall, as a minimum, provide for (1) safeguarding, (2) proper use, (3) adequate records, and (4) compliance with applicable laws and regulations, whether such items are used in laboratories for research, instruction, experiments, analysis, medical purposes, or otherwise. Controls of potable alcohol shall be maintained on quantities of 1 quart and above.

(d) Effective procedures and practices shall be established for the management and physical security of hypodermic needles to prevent illegal use. Controls shall include prior signed supervisory approval for issue, and storage in locked repositories, and the needles shall be made useless upon disposal.

§ 109-27.5010 Containers returnable to vendors.

Containers furnished by vendors shall be administratively and physically controlled before and after issuance. Prompt action shall be taken to return such containers to vendors for credit after they have served their intended use.

§ 109-27.5011 Identification marking of metals and metal products.

§ 109-27.5011-1 General.

Metals and metal products shall be identification marked in accordance with applicable Federal standards. This requirement applies to direct charges as well as to items procured for store, shop, or floor stock, or for use on construction projects. Additional markings not covered by the Federal standards should be used to show special properties, corrosion data or test data as required. The preferred process is for the marking to be done in the manufacturing process, but it may be applied by jobbers or other vendors when circumstances warrant.

§ 109-27.5011-2 Exception.

Exception to the marking requirement may be made when—

(a) It is necessary to procure small quantities from suppliers not equipped to do the marking;

(b) It would delay delivery of emergency orders; or

(c) Procurement is from DOE or other Federal agency excess.

§ 109-27.5011-3 Federal standards applicable to marking.

(a) Federal Standard 182A(2) "Identification Marking of Nickel and Nickel Base Alloys."

(b) Federal Standard 183B "Continuous Identification Marking of Iron and Steel Products."

(c) Federal Standard 184A "Identification Marking of Aluminum, Magnesium and Titanium."

(d) Federal Standard 185 "Continuous Marking of Copper and Copper Base Alloy Mill Products."

Copies of the above Federal standards can be obtained from the General Services Administration, Federal Supply Service (3 FRI), Washington, D.C. 20407.

Subpart 109-27.51—Management of Equipment Held for Future Projects

§ 109-27.5100 Scope of subpart.

This subpart provides policies, principles, and guidelines to be used in the DOE program for the management of equipment held for future projects (EHFFP).

§ 109-27.5101 Definition.

"Equipment Held for Future Projects (EHFFP)" is equipment that is being retained, based on approved economic justifications for retention, (a) for a known future use, i.e., equipment earmarked for use in future approved projects, (b) for a potential use in planned projects, or (c) for potential use in as yet unidentified projects. Ideally, such equipment should fall under paragraph (a) or (b) of this section. However, there may be instances where retention is justified even though the project in which it may be used cannot be identified as in the case where the equipment has been specially fabricated, may be required in the future to confirm experimental results, and has little recovery value other than as scrap. This classification excludes spare equipment retained as backup for equipment in service or equipment placed in equipment pools (classified as "In Service"), and spare and other equipment constituting a part of the facilities in standby (classified as "Standby").

§ 109-27.5102 Other exclusions.

In addition to the exclusions cited in § 109-27.5101, the following categories of equipment will not be included in EHFFP:

- (a) Excess completed plant and equipment.
- (b) Equipment classified as "Plant and Equipment Changes in Progress."

§ 109-27.5103 Objective.

The objective of the "Equipment Held for Future Project" program is to enable management to retain equipment not in use in current programs but which has a known or potential use in future DOE programs while providing visibility on the types and amounts of equipment so retained through review and reporting procedures. It is intended that equipment be retained which is economically justifiable for retention, that it be made available for use by others, and that equipment no longer needed be excessed.

§ 109-27.5104 Storage.

EHFFP will ordinarily be stored in warehouse space allocated for that purpose. However, where considered more appropriate, such equipment may be stored in storage yards or other areas with due consideration to the type of property and protection required.

§ 109-27.5105 Retention.

Equipment not require in current programs may be held for future projects when it is considered by appropriate authorities to be economically justified for retention, considering costs of replacement, storage, obsoles-

cence, deterioration, or future availability.

§ 109-27.5106 Justification and review procedures.

Procedures shall be established to provide for the following:

(a) The original decision to classify and retain equipment as EHFFP shall be justified in writing, providing sufficient detail to support the need for retention of the equipment. This justification will cite the project for which retained, the potential use to be made of the equipment or other reasons for retention.

(b) The validity of initial classification of equipment held for future projects shall be reviewed at a level of management one echelon above that of the individual making the initial determination.

(c) Retention of EHFFP shall be rejustified periodically (at least annually) to insure that original justifications remain valid. These rejustifications will be supported with sufficient detail to support retention.

(d) Periodic rejustifications for retention of EHFFP shall be reviewed at a level of management above that of the individual making the determination to retain the equipment as held for future projects. Procedures should provide for higher level management review at the time the equipment held is extended.

(e) Suitable records shall be maintained by the holding organization to support initial justifications for retaining EHFFP, rejustifications of retention, and periodic reviews conducted by higher levels of management.

§ 109-27.5107 Field organization review.

Heads of field offices and contracting officers shall conduct periodic reviews of validity of justifications for retaining EHFFP, including those of contractors under their jurisdiction. These reviews should include onsite surveys of a representative sample of equipment in this classification.

§ 109-27.5108 Utilization.

It is DOE policy that, where practicable and consistent with program needs, EHFFP be considered as a source of supply to avoid or postpone procurement. Procedures shall be established to provide for—

(a) Distribution within the holding organization of lists of EHFFP to purchasing offices (or some other central screening office) and potential users for screening against requirements prior to procurement;

(b) Exchange of lists of EHFFP which can be made available for loan between organizations involved in the same or similar programs; and

(c) Encouragement of informal contacts between technical personnel and

those engaged in similar work at other DOE facilities for the purpose of arranging property loans to meet program requirements.

§ 109-27.5109 Reports.

Instructions for submission of financial data for this report are contained in DOE Order 2200, Chapter XI.

Subpart 109-27.52—Management of Spare Equipment

§ 109-27.5200 Scope of subpart.

This subpart provides policy guidance to be used in the management of spare equipment.

§ 109-27.5201 Definition.

"Spare equipment" is equipment held as replacement spares for equipment in current use in DOE programs.

§ 109-27.5202 Exclusions.

The following categories of equipment will not be considered spare equipment:

- (a) Equipment installed for emergency backup, e.g., an emergency power facility, or an electric motor or a pump, any of which is in place and electrically connected.
- (b) Equipmentlike items properly classified as stores inventory.

§ 109-27.5203 Classification.

Equipment retained as replacement spares for plant and equipment in current use shall be classified as plant and equipment in service.

§ 109-27.5204 Management policy.

(a) Procedures shall be established to provide that equipment retained as replacement spares for plant and equipment in current use is identified as spare equipment, that its purpose for retention is known, and that its need for retention is periodically reviewed.

(b) Reviews shall be made based on technical evaluations of the continued need for the equipment, as related to the equipment it backs up. Frequency of review should normally be biennial. In addition, individual item levels shall be reviewed when spare equipment is installed for use, the basic equipment is removed from service, or the process supported is changed.

(c) Procedures shall be established to provided that unneeded equipment is identified, promptly offered for use elsewhere within DOE as excess, or disposed of.

PART 109-28—STORAGE AND DISTRIBUTION

§ 109-28.000 Scope of part.

This part implements and supplements FPMR Part 101-28, Storage and Distribution.

§ 109-28.001-50 Policy.

Storage and warehouse services shall be—

(a) Established for the receipt, storage, issue, safekeeping, and protection of Government-owned property when advantageous to the Government;

(b) Provided in the most economical and efficient manner through the use of Government-owned facilities, and where necessary available commercial facilities, consistent with program requirements; and

(c) Operated in accordance with generally accepted industrial management practices and principles.

§ 109-28.001-51 Storage guidelines.

(a) Adequate storage facilities shall be provided to insure the proper safeguarding of all Government property. Facilities required will vary largely between the projects and other activities of the Department. Actual requirements will depend upon such factors as volume of property to be handled, characteristics of commodities to be stored, and nature of the operations.

(1) Indoor storage areas should be arranged to obtain proper stock protection and maximum utilization of space within established floor load capacities, but should be subject to flexibility to provide for periodic changes in specific space requirements. Employees engaged in warehouse and storage operations shall be instructed in safety and fire protection regulations pertaining to these operations.

(2) Storage yards for items not requiring covered protection shall be protected by locked fenced enclosures to the extent necessary to protect the Government's interest. Outside storage areas shall be prominently posted to clearly indicate that the property stored therein is U.S. Government property. Entrance to such areas should be restricted to authorized personnel only.

(b) The following general storage principles shall be observed in the planning for the storage of Government personal property.

(1) Efficient storage demands the maximum utilization of space with a minimum amount of labor. Where practicable, labor should be conserved by use of modern materials handling equipment and storage aids which permit stacking by unit loads rather than by individual container units.

(2) Fast-moving items should be stored in convenient locations from which they can be issued with minimum handling. Stocks of individual items or classes of items should be segregated to facilitate handling, issuing, and inventorying.

(3) Different types of property should be stored according to the kind of protection required. Protection requirements will vary greatly with the types of commodities stocked. All

items must be protected from fire and theft. Certain items require protection from dampness, heat, freezing, or extreme temperature changes. Others must be stored away from light and odors, protected from vermin infestation, or, because of their hazardous characteristics, stored separate from other stocks. These factors, as well as maximum protection of property against all causes of deterioration or destruction, must be considered in selecting proper storage locations.

(4) Orderly arrangement is essential to efficient operation of storehouses. All items, whether stored in bins, bays, in bulk, or in original containers should be so arranged that nomenclature and quantity may be readily determined.

(5) Stock rotation is based on the general storage principle of "first in, first out." The fact that many items, such as perishables, food stuffs, medicines, paints, and chemicals are subject to deterioration or infestation, requires that the older stock be issued first.

(6) The safety regulations pertaining to the handling and storage of flammable materials, including bulk storage of gasoline, fuel oil, etc., and explosives are issued by the Department of Labor pursuant to the Occupational Safety and Health Act (Pub. L. 91-956). DOE offices and contractors are required to comply with the regulations contained in the Act.

PART 109-29—FEDERAL SPECIFICATIONS AND STANDARDS**§ 109-29.000 Scope of part.**

This part implements and supplements FPMR Part 101-29, Federal specifications and standards.

Subpart 109-29.1—General**§ 109-29.103 Availability of Federal standardization documents.**

The index of Federal specifications, standards, and handbooks may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Copies of Federal specifications and standards may be obtained as provided in the index.

PART 109-30—FEDERAL CATALOG SYSTEM**§ 109-30.000 Scope of part.**

This part supplements FPMR Part 101-30, Federal Catalog System.

§ 109-30.000-50 Applicability.

The provisions in FPMR Part 101-30 and this part do not apply to contractors.

Subpart 109-30.5—Maintenance of the Federal Catalog System**§ 109-30.503 Maintenance actions required.**

(a) Standard form 1303, "Request for Federal Cataloging/Supply Support Action," will be used to request cataloging action involving additions, deletions, or revisions. The instructions on the reverse of the form, supplemented as follows, will govern its preparation and submission.

(b) The original and two copies of the completed form shall be sent to GSA for processing. Inquiries concerning policy should be directed to the Procurement and Contracts Management Directorate (PR-221).

PART 109-32—GOVERNMENT-WIDE AUTOMATED DATA MANAGEMENT SERVICES**§ 109-32.000 Scope of part.**

This part implements and supplements FPMR Part 101-32 as it relates to excess utilization and disposal of Automatic Data Processing Equipment (ADPE). Guidance on other areas, such as resources utilization, acquisition studies, procurement and contracting, and maintenance and repair is or will be published in other parts of the DOE Directives System.

Subpart 109-32.3—Reutilization of Automatic Data Processing Equipment and Supplies**§ 109-32.300-50 Scope of subpart.**

This subpart implements and supplements FPMR Subpart 101-32.3. Policies and procedures relating to acquisition, reassignment, or retention of excess ADPE are contained in policies and procedures established by the Office of the Director of Administration.

§ 109-32.302-50 Reassignment of ADPE, and use and reutilization of excess ADPE within DOE.

Data processing equipment and related services shall not be acquired (purchased or leased) from commercial sources until the necessary approvals have been obtained in accordance with instructions issued by the Office of the Director of Administration.

§ 109-32.303 Reutilization of excess ADPE.**§ 109-32.303-50 Reporting excess or exchange/sale ADPE within DOE.**

(a) All ADPE, either Government-owned or -leased, which is no longer needed or is scheduled for replacement, shall be made available for utilization within DOE as soon as plans for the release of such equipment are known.

(b) SF 120's for Government-owned ADPE shall be circularized for screening within DOE prior to reporting the

item to GSA. The SF 120 shall contain the information required in FPMR 101-32.4702 and, for internal screening purposes, a release date (date of availability). If the release date is not firm, a tentative release date should be given, which would be subject to change until the actual release date is established.

ADPE shall not be reported to GSA as excess until this screening has been accomplished and it has been established that there are no DOE claimants. Concurrent screening within DOE and GSA shall not be done. A minimum of 30 days should be allowed for screening ADPE prior to reporting it to GSA. In those instances where the release date can be determined sufficiently in advance, additional screening time should be allowed to permit maximum time for processing of requests to acquire excess ADPE.

(c) The procedures prescribed in § 109-32.303-0.50(b) shall be followed for leased ADPE. However, when time does not permit sequential DOE and GSA circularization, excess leased ADPE may be circularized concurrently in DOE and GSA to assure earned credits are not lost to the Government. The SF 120 should clearly indicate concurrent screening by DOE and GSA.

Where time does not permit assurance that earned credits are not lost to the Government, announcement of availability of excess leased ADPE may be circularized within DOE by teletype (TWX).

(d) SF 120's or teletypes shall be sent to DOE activities listed on the distribution pattern of installations to receive reports of excess as provided in § 109-43.311-1.50. In addition, a copy of each report of excess Government-owned or -leased ADPE shall be provided to the Director of Administration, who will perform an additional screening of excess ADPE against known DOE requirements.

§ 109-32.303-1 Designation of agency ADPE point of contact.

The Director of Administration shall designate the DOE point of contact to carry out the responsibilities contained in FPMR 101-32.303-1.

§ 109-32.303-50 Transfer of ADPE within DOE.

(a) Transfers of excess ADPE having a current market price equal to or greater than that specified for major items as defined in the DOE Program Budget Structure are made pursuant to the requirement for proposals submitted in accordance with instructions from the Office of the Director of Administration.

(b) Transfers of excess ADPE with a current market price of less than that specified for major items shall be ap-

proved by the head of the field office and the head of the Headquarters organization having ADPE responsibility for the equipment. However, when more than one request is received, the field office head shall notify the requestors that acquisition proposals prepared in accordance with instructions from the Office of the Director of Administration shall be forwarded to the field office for review. After receipt of all proposals, the field office head shall—

(1) Approve the request for transfer which is judged to be in the best interests of DOE; or

(2) Where this judgment cannot be made locally, forward the proposals to the Director of Administration for action in a manner similar to proposals for equipment having a current market price equal to or greater than that specified for major items.

§ 109-32.304 Availability lists.

The Director of Administration shall develop and maintain distribution patterns for availability lists of excess and exchange/sale ADPE as contemplated in FPMR 101-32.304.

§ 109-32.306 Requests for transfer of excess ADPE or exchange/sale ADPE.

The Director of Administration, heads of field offices, the Administrator, Energy Information Administration and contracting officers are authorized to sign standard form (SF) 122, Transfer Order Excess Personal Property, after appropriate approvals, involving requests for transfer of excess or exchange/sale ADPE, as required by FPMR 101-32.306(a). This authority may be redelegated to DOE personnel under their jurisdiction.

Subpart 109-32.47—Reports.

§ 109-32.4700 Scope of subpart.

This subpart implements and supplements, FPMR subpart 101-32.47 as it relates to reporting excess or exchange/sale ADPE to GSA.

§ 109-32.4702 Reporting excess or exchange/sale ADPE.

Excess Government-owned or -leased ADPE and exchange/sale ADPE shall be reported to GSA on standard form (SF) 120, Report of Excess Personal Property, in accordance with the requirements of FPMR 101-32.4702. No provision is made in FPMR 101-32.4702 for the use of a TWX as a substitute for the SF 120 in reporting excess ADPE to GSA. When a TWX is used to report excess leased ADPE to GSA, it shall be followed up with an SF 120 to GSA, providing appropriate cross-reference information.

SUBCHAPTER G—TRANSPORTATION AND MOTOR VEHICLES

PART 109-38—MOTOR EQUIPMENT MANAGEMENT

Sec.

109-38.000 Scope of part.
109-38.000-50 Policy.

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109-38.001 Definitions.

Subpart 109-38.1—Reporting Motor Vehicle Data

109-38.100-1 Reporting forms.
109-38.102 Preparation of forms.
109-38.102-2 Reporting domestic and foreign vehicles.
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109-38.202-50 Registration in foreign countries.
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Subpart 109-38.3—Official Government Tags

109-38.302 Records.
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109-38.305 Display, assignment and removal of U.S. Government tags.
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Subpart 109-38.10—Scheduled Maintenance of Motor Vehicles

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Subpart 109-38.12—Preparation and Control of Standard Form 149, U.S. Government National Credit Card

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- 109-38.5403 Official purposes.
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 109-38.5405 Duration of authorizations.
 109-38.5406 Use of a motor vehicle to drive to residence at start of official travel.
 109-38.5407 Use of Government-owned or furnished motor vehicles in travel status.
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 109-38.5409 Use of Government motor vehicles in emergencies.
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PART 109-39—INTERAGENCY MOTOR VEHICLE POOLS**Subpart 109-39.3—Motor Vehicle Exemptions**

- 109-39.302 Unlimited exemptions.
 109-39.303 Limited exemptions.

Subpart 109-39.4—Establishment, Modification, and Discontinuance of Motor Pools

- 109-39.404-3 Problems involving service or cost.
 109-39.404-4 Agency requests to withdraw participation.

Subpart 109-39.5—Services

- 109-39.502 Services available.
 109-39.502-50 Commercially rented vehicles available through Interagency Motor Pools.

Subpart 109-39.6—Official Use of Government Motor Vehicles and Related Motor Pool Services

- 109-39.601 General requirements.
 109-39.602 Authorized use.
 109-39.602-1 Government vehicles.

Authority: Title V, Department of Energy Organization Act (Pub. L. 95-91); Administrative Procedure Act, as amended, (5 U.S.C. 551, et seq.).

PART 109-38—MOTOR EQUIPMENT MANAGEMENT**§ 109-38.000 Scope of part.**

This part implements and supplements FPMR Part 101-38 concerning the management of motor equipment, vehicles and aircraft.

§ 109-38.000-50 Policy.

Necessary motor equipment, vehicles and aircraft shall be provided, maintained and utilized in support of DOE programs in the most practical and economical manner consistent with program requirements, safety considerations, fuel economy and applicable laws and regulations.

Subpart 109-38.0—Definition of Terms**§ 109-38.001 Definitions.**

As used in this part the following definitions apply:

(a) "Motor equipment" means any item of equipment which is self-propelled or drawn by mechanical power, including motor vehicles, motorcycles and scooters, construction and mainte-

nance equipment, materials handling equipment, aircraft and vessels.

(b) "Motor vehicle" means any equipment, self-propelled or drawn by mechanical power, designed to be operated principally on the highways in the transportation of property or passengers. This includes both motorcycles and motor scooters.

(c) A "replacement off-set" is an authorization to one field office to acquire a new passenger motor vehicle to replace an old passenger motor vehicle which is excess to another field office. The transaction does not require the physical transfer of the excess vehicle, but it is limited to a documentary transfer.

(d) "Special purpose vehicles" have limited but essential missions. They cannot be used generally to carry passengers, freight or other material. Trucks with permanently mounted equipment—such as fire trucks, special tank trucks, wreckers and trucks with compressors or generators in fixed mounting on the body may be classified as special purpose trucks. Vehicles other than sedans and station wagons which are to be used only during a defined or specified contingency, such as evacuation or other similar emergency, may also be classified as special purpose vehicles. For reporting purposes within DOE, motorcycles and motor scooters will also be reported as special purpose vehicles.

(e) "Experimental vehicles" are those acquired solely for testing and research purposes or otherwise designated for experimental purposes. Such vehicles are to be the object of testing and research as differentiated from those used as vehicular support to testing and research. Experimental vehicles are not to be used as passenger carrying vehicles, and they are not subject to statutory price limitations or to authorization limitations.

Subpart 109-38.1—Reporting Motor Vehicle Data**§ 109-38.100-1 Reporting forms.**

(a) Organizations operating motor vehicles shall provide the following reports:

(1) Agency report of Motor Vehicle Data, standard form 82 (SF-82).

(2) Agency report of Sedan Data, standard form 82-D (SF 82-D).

(3) Supplementary data reports:
 (i) Acquisitions and Disposals by Transfer (§ 109-38.4950)

(ii) Special Purpose Vehicles (§ 109-38.4951)

(iii) Supplemental Age and Mileage Analysis (§ 109-38.4952).

(b) One copy of each of the above reports shall be submitted to the Procurement and Contracts Management Directorate (PR-221) by the 21st working day following September 30 of each year.

(c) Each field office and reporting headquarters organization shall submit consolidated reports on all vehicles for organizations under their jurisdiction and, attached thereto, the separate reports for each field organization, multi-program laboratory and contractor which submits a budget schedule 81 to headquarters.

(d) Where authorized by the Procurement and Contracts Management Directorate (PR-221) the reports shall be submitted in mechanized form.

§ 109-38.102 Preparation of forms.

(a) Costs in the standard forms shall be shown in dollars (not rounded to thousands).

(b) Narrative comments shall be submitted in connection with these reports. The comments shall include: (1) A comparison of statistical information between fiscal years, (2) an explanation of any significant changes between years, and (3) any other information that will assist in the interpretation of data contained in the reports.

§ 109-38.102-2 Reporting domestic and foreign vehicles.

Separate SF-82's and supplementary data forms shall be prepared for vehicles located (a) in the United States, including territories and possessions, and (b) in a foreign country.

§ 109-38.102-50 Supplementary data reports.

(a) Supplementary Data on Acquisitions and Disposals by Transfer, in the format illustrated in § 109-38.4950, shall be submitted with each SF-82. The purpose of the supplementary data on acquisition and disposal is to identify the number of motor vehicles transferred (1) between DOE and other agencies, (2) between DOE activities, (3) from one vehicle type to another by reclassification, and (4) to permit reporting of the actual number of vehicles acquired or disposed of by DOE.

(b) Supplementary data on age and mileage of sedans and light trucks, less than 12,500 pounds (one ton and under), 4 x 2, shall be reported in the format illustrated in § 109-38.4952. This supplementary data shall be submitted only for those sedans and light trucks, 4 x 2, listed in the SF-82 submitted in accordance with § 109-38.100-1.

(c) Supplementary data on Special Purpose Vehicles shall be reported in the format illustrated in § 109-38.4952. For the purpose of this report, contaminated vehicles shall be reported as special purpose.

Subpart 109-38.2—Registration and Inspection

§ 109-38.202-50 Registration in foreign countries.

Motor vehicles used in foreign countries are to be registered and carry license tags in accordance with the existing motor vehicle regulations of the country concerned.

§ 109-38.202-51 Shipment to foreign countries.

(a) When motor vehicles are being shipped for use in a foreign country, the desk officer or individual handling the affairs pertaining to that country in the Department of State shall be contacted before shipment is made for information concerning the licensing and shipping of the vehicle.

(b) The person responsible for, and expected to use, a motor vehicle in a foreign country shall make inquiry at the U.S. Embassy, Legation, or Consulate concerning the regulations that apply to registration, licensing, and operation of motor vehicles and shall be guided accordingly.

Subpart 109-38.3—U.S. Official Government Tags

§ 109-38.302 Records.

(a) The Director of Procurement and Contracts Management assigns "blocks" of U.S. Government tag numbers to DOE organizations and maintains a current record of such assignments. Additional "blocks" will be assigned upon request.

(b) Each Departmental organization shall maintain a current record of individual assignments of tags to the motor vehicles under its jurisdiction as required by FPMR 101-38.302.

§ 109-38.303 Procurement.

The procedures for procuring official Government tags by DOE activities are covered in DOE-PR 9-5.5206-9.

§ 109-38.305 Display, assignment and removal of U.S. Government tags.

§ 109-38.305-3 Removal.

Necessary controls shall be established to ensure that tags which are voided shall be destroyed or defaced to prevent their reuse.

Subpart 109-38.4—Official Legend and Agency Identification

§ 109-38.404 Procurement of decalcomanias.

The official legend and agency identification for DOE shall be of elastomeric pigmented film type decalcomania which are currently standardized DOE form 597. The form shall be requisitioned from the Office of the Director of Administration (AD-472), on a regular 6-month basis.

Subpart 109-38.6—Exemptions From Use of Official U.S. Government Tags and Other Identification

§ 109-38.602 Unlimited exemptions.

§ 109-38.602-50 Department of Energy exemptions.

(a) Exemptions from the requirements for the display of Federal license tags and other official identification may be approved by heads of field offices or the director of administration for motor vehicles under their cognizance which are used in the conduct of security operations or in the enforcement of security regulations of the DOE.

(b) The requirements for displaying Federal license tags on the front and rear of all motor equipment is modified in the case of trailers to require tags in the rear only.

(c) The requirements for the display of Federal license tags and other identification does not apply to motor vehicles used in foreign countries, Trust Territories, or the Pacific Test Areas (see FPMR 101-38.202 and § 109-38.202-50).

§ 109-38.605 Additional exemptions.

(a) Requests made pursuant to FPMR 101-38.605 for exemption from the requirement for displaying U.S. Government tags and other identification on motor vehicles which are not within the criteria in FPMR 101-38.602 shall be submitted through normal administrative channels to the Procurement and Contracts Management Directorate (PR-221). Each such request shall describe the vehicle for which exemption is sought, the nature of the work on which it is used, and include a certification to the effect that conspicuous identification would interfere with such use.

(b) The Director of Procurement and Contracts Management shall be notified promptly when—

(1) The need for a previously authorized exemption no longer exists;

(2) An exempted motor vehicle is rotated to other work not requiring continued exemption; or

(3) An exempted motor vehicle is replaced by another vehicle, in which case the notification shall include a description of the replacement vehicle.

(c) Copies of certifications and cancellation notices required to be furnished to GSA pursuant to FPMR 101-38.605 will be transmitted to GSA by the Director of Procurement and Contracts Management.

§ 109-38.606 Approval of tag requests for exempted vehicles in the District of Columbia.

The Director of Administration is designated as the DOE Liaison Representative to approve requests for regu-

lar District of Columbia tags for headquarters motor vehicles exempted from carrying U.S. Government tags and other official identification, and furnishes annually to the district of Columbia Department of Motor Vehicles the name and specimen signature of each representative authorized to approve such requests.

§ 109-38.607 Report of exempted motor vehicles.

The Director of Administration, heads of field offices and other contracting officers or their designees shall maintain records of motor vehicles exempted from displaying Federal license tags and other identification which will permit the submission of reports by the Director of Procurement and Contracts Management upon request of GSA in accordance with FPMR 101-38.607. The records shall contain a listing by type of each exempted vehicle operated during the previous fiscal year, giving the information for each vehicle on hand at the beginning of the year and each of those newly authorized during the year, including—

- (a) By whom exemption was authorized, by name and title of authorizing official (including any authorization by Headquarters and GSA);
- (b) Date exemption was authorized;
- (c) Reasons for exemptions and limitations on uses of the exempted vehicle;
- (d) Date of discontinuance for any exemption discontinued during the year; and
- (e) Probable duration of exemption for vehicles continuing in use.

Subpart 109-38.7—Transfer of Title to Government-Owned Motor Vehicles

§ 109-38.701 Methods of transfer.

(c) The certificates and copies of Certificate of Release of a Motor Vehicle (SF's 97 and 97A) shall be numbered consecutively by each DOE organization disposing of motor vehicles.

§ 109-38.701-50 Delegation of authority to sign Standard Forms 97 and 97A.

(a) Heads of DOE organizations may delegate the authority to sign SF's 97 and 97A to responsible DOE personnel under their jurisdiction. The name of the officer delegated to sign will be typed on the certificate in addition to the signature in ink.

(b) All DOE organizations shall establish proper controls to prevent blank copies of SF's 97 and 97A from being obtained by unauthorized persons.

Subpart 109-38.9—Motor Vehicle Replacement Standards

§ 109-38.900-50 Policy.

It is the policy of DOE to continue in service motor vehicles which meet prescribed replacement standards, but which are in usable and workable condition, provided that—

- (a) A continued need exists for the vehicle;
- (b) The vehicle can be operated safely and dependably without excessive repair and maintenance costs. Normally, when any single repair job exceeds 25 percent of the estimated current market value of a vehicle, consideration should be given to replacement in lieu of repair and retention;
- (c) Repair parts are readily obtainable; and
- (d) Retention will not substantially reduce the trade-in value of the vehicle.

§ 109-38.907 Fleets.

- (a) The replacement limitations cited in FPMR 101-38.907 are applicable to each of DOE's field offices and may not be exceeded.
- (b) For replacement purposes, fleet vehicles are classified as follows:
 - (1) Automobiles (sedans and station wagons).
 - (2) All other passenger vehicles (ambulances, buses).
 - (3) All trucks and truck tractors.
- (c) To be replaced, vehicles must meet age and mileage standards shown in FPMR 101-38.9.

§ 109-38.908 Exceptions.

After certification by the appropriate head of the field office, or the head of the appropriate Headquarters organization, that a motor vehicle is beyond economical repair due to wreck or damage, including wear caused by abnormal operating conditions, it may be replaced without regard to replacement standards in FPMR 101-38.9.

§ 109-38.908-50 Prompt disposal of replaced passenger vehicles.

Because of the limitation on the total number of passenger vehicles which DOE may have, replaced passenger vehicles shall be removed from service and disposed of prior to or as soon as practicable after delivery of the replacement equipment to avoid concurrent operation of both vehicles. Because of disposal problems, there may be occasions where quick disposal of the old equipment may not be feasible or advantageous to the Government, e.g., it may be determined that there is an insufficient number for economical sale or that sale would bring substantially better prices at a later date because of seasonal effects on sale prices. Under such circumstances, retention of the replaced pas-

senger vehicle may be justified. However, such retention may not be used as justification for concurrent operation of the new and replaced vehicles.

Subpart 109-38.10—Scheduled Maintenance of Motor Vehicles

§ 109-38.1002 Agency requirements.

All DOE organizations responsible for Government-owned motor vehicle and equipment operations shall establish a scheduled maintenance program.

§ 109-38.1003 Guidelines.

(a) In line with the basic maintenance policy in FPMR 101-38.10, the scheduled maintenance program for motor vehicles and equipment shall consist of a systematic written procedure for servicing and inspection to ensure safe, efficient and economical operation throughout the period of use and to meet warranty requirements. Maintenance procedures shall be reviewed by the field offices at least annually and revised as necessary to reflect approved changes.

(b) Motor vehicles and equipment shall be maintained in accordance with the manufacturers' recommended specifications.

(c) Whenever practicable, existing Government shops and service facilities shall be consolidated or commercial shops and services shall be utilized to reduce to a minimum the maintenance facilities and equipment, supplies, parts, stocks and overhead costs.

(d) Maintenance also shall be geared to a planned replacement program. Individual jacket files shall be kept and made readily available to appropriate maintenance personnel to provide historical records of past repairs, as a control against unnecessary repairs and overmaintenance, and as an aid in determining the most economical time for replacement.

(e) One-time maintenance and repair limitations shall be established by heads of field offices. To exceed repair limitations, approval from heads of field offices is required, particularly as the time of replacement approaches.

(f) Adequate maintenance schedules shall be provided to accomplish the following objectives in the most economical manner:

- (1) To maintain equipment in safe and economical operating condition.
- (2) To prevent equipment failures resulting in program delays and excessive downtime.
- (3) To prevent premature wear and deterioration.
- (4) To prevent undue depreciation.
- (5) To conserve materials and manpower.

(g) A "Guide for Preventive Maintenance of Motor Vehicles," published by GSA, is available or the guidance of

all those responsible for maintenance of Government-owned motor vehicles.

(h) Warranties.

(1) Special attention shall be devoted to the warranty on each motor vehicle to ensure that maximum benefits are realized from each warranty. Defective materials and workmanship on vehicles under warranty should be corrected under the terms of the warranty to avoid maintenance and repair of such vehicles at Government expense.

(2) When motor vehicles are maintained in Government shops in isolated locations that are distant from franchised dealer shops, or when it is not practical to return the vehicles to a dealer, billback agreements shall be sought from manufacturers to permit warranty work to be performed in Government shops on a reimbursable basis. GSA's "New Vehicle Guide, Warranty, Delivery Acceptance and Recall of Motor Vehicles," provides guidance on the procedures to be followed in the development of billback agreements as well as other aspects of motor vehicle warranties.

§ 109-38.1005 Assistance to agencies.

GSA is prepared to furnish comments and suggestions with respect to scheduled maintenance programs and, at no cost, will make motor equipment management technicians available to assist in establishing or reviewing preventive maintenance programs. Requests for GSA assistance should be made to the Procurement and Contracts Management Directorate (PR-221) through normal administrative channels.

Subpart 109-38.12—Preparation and Control of Standard Form 149, U.S. Government National Credit Card

§ 109-38.1200 General.

FPMR 101-26.406 authorizes the use of standard form 149, U.S. Government National Credit Card for Federal agencies for obtaining service station deliveries and services. The use of SF-149 by each field organization within DOE is optional. When a field organization elects to use the form, it shall be used on a field organization basis. Procedures concerning the methods to obtain credit cards shall be as specified in FPMR 101-26.406-5.

§ 109-38.1201 Billing code.

DOE organizations shall request the assignment of billing address code numbers from the Procurement and Contracts Management Directorate (PR-221). Following the assignment, DOE organizations shall submit orders for issuance of national credit cards in accordance with FPMR 101-26.406-5. The billing code consists of the following:

(a) The first 3 digits of the 10-digit billing code embossed on national credit cards in use by DOE will always be 000.

(b) The fourth digit may be used by DOE organizations and contractors to designate the vehicle class or provide additional billing code numerals. If not used for either of these purposes, zero will be used.

(c) The fifth and sixth digits will be "89," the agency code assigned to DOE.

(d) The seventh, eighth, and ninth digits indicate the billing address code number.

§ 109-38.1202 Administrative control of credit cards.

(a) In the event an SF-149 is lost or stolen, reasonable precautions shall be taken to minimize the opportunity of purchases being made by unauthorized persons. The following actions shall be taken as a minimum:

(1) The paying office shall be notified of the loss or theft and to be on the alert for any unauthorized bills.

(2) Appropriate service station outlets in the area shall be notified of the loss or theft to guard against purchases by unauthorized persons.

(b) The head of each office using credit cards shall be responsible for establishing procedures to provide for the administrative control of credit cards in accordance with the guidelines set forth in FPMR Part 101-38.

Subpart 109-38.13—Energy Conservation in Motor Vehicle Management

§ 109-38.1304 Mandatory provisions affecting the acquisition and use of all motor vehicles.

(c) The use of motor vehicles for official purposes within DOE is governed by the provisions of DOE Subpart 109-38.55.

§ 109-38.1304-50 Selection of type of motor vehicles.

(a) All vehicles acquired for use, whether by purchase, hire, lease, forfeiture, or transfer from another agency, shall be limited to the minimum body size, engine size, maximum fuel efficiency, and to only that operational equipment (if any) necessary to fulfill programmatic needs.

(b) The least expensive unit overall should be used, considering both acquisition and operating costs for units to be purchased, and rental rates for rented or leased units.

(c) Dual purpose vehicles capable of hauling both personnel and light cargo shall be used whenever appropriate to avoid the need for two vehicles when one can serve both purposes. However, truck-type or van vehicles shall not be acquired for passenger use merely to avoid limitations on the

number of passenger vehicles which may be acquired.

(d) Motor scooters and motorcycles in place of higher cost motor vehicles can be used advantageously for certain applications within plant areas, such as mail and messenger service and small parts and tool delivery. Their advantage, however, should be weighed carefully from the standpoint of overall economy (comparison with costs for other types of motor vehicles) and increased safety hazards, particularly when mingled with other motor vehicle traffic.

(e) Electric vehicles may be used advantageously for certain applications. The use of these vehicles is encouraged whenever it is feasible to use them to further the goal of fuel conservation.

§ 109-38.1305 Mandatory provisions affecting the acquisition, use, and replacement of motor vehicles.

(a) DOE shall comply with the requirements established by the Energy Policy and Conservation Act (Pub. L. 94-163, 42 U.S.C. 6201, sec. 510) and Executive Order 12003, "Relating to Energy Policy and Conservation," and current GSA implementation concerning the acquisition of fuel efficient motor vehicles.

(b) Offices conducting motor vehicle operations shall forward annually to the Procurement and Contracts Management Directorate (PR-221) through normal administrative channels, their plan for acquisition of motor vehicles for the next fiscal year. This plan shall conform to the fuel efficiency standards for motor vehicles for the applicable fiscal year, as established by Executive Order 12003 and as implemented by GSA. Annual guidance for the preparation of the plan will be issued by the Procurement and Contract Management Directorate (PR-221) which shall review each submission for conformance with established fuel efficiency standards and shall forward to GSA the departmental consolidated annual motor vehicle acquisition forecast.

(c) Requisitions for the purchase of these motor vehicles shall be forwarded to the Procurement and Contracts Management Directorate (PR-221) for review, certification, and submission to GSA.

(d) Proposals/requests for commercially leased passenger automobiles, for a period of 60 continuous days or more, shall be forwarded to the Procurement and Contracts Management Directorate (PR-221) for review and certification prior to entering into an agreement to lease in order to comply with Executive Order 12003 as implemented by GSA.

(e) Requests to acquire passenger automobiles larger than class 1A, 1B,

PROPOSED RULES

or II shall be forwarded with justifications through normal administrative channels to the Procurement and Contracts Management Directorate (PR-221) for certification to GSA.

§ 109-38.1350 Conservation of motor vehicle fuels.

In furtherance of the President's announced energy conservation objectives, each organization within DOE shall establish programs which will insure achievement of the reduced motor vehicle fuel consumption objectives. The following actions shall be adopted to achieve the conservation goals of reduced motor vehicle fuel consumption.

(a) Do not idle engine for long periods of time. Limit idle time to 1 minute when the vehicle is parked.

(b) Reduce motor vehicle travel to the maximum extent practicable without jeopardizing essential business.

(c) Use the smallest vehicle that is feasible for the job.

(d) Maintain tire pressure to tire manufacturer's recommendations. Check pressure at least once each week.

(e) Give wide publicity on proper driving techniques as prescribed by GSA to conserve fuels and require that all drivers diligently follow them.

(f) Travel at reduced speeds and limit speed to the national speed limit.

(g) Enforce proper maintenance and servicing procedures, such as tuneups, in accordance with the manufacturer's latest specifications.

§109-38.4950 Acquisitions and Disposals by Transfer.

ACQUISITIONS AND DISPOSALS BY TRANSFER

	Sedans	Station Wagons	Ambulances	Buses	Light 4X2	Trucks 4X4	Medium Trucks	Heavy Trucks	Special Purpose	Total
<u>Acquired By Transfer</u> From Other Agencies From Other DOE Offices By Reclassification										
<u>Disposal By Transfer</u> To Other Agencies To Other DOE Offices By Reclassification										

Note 1: With regard to sedans, station wagons, ambulances and buses, the acquiring office should specifically identify the agency or office from which acquired and the disposing office should specifically identify the acquiring office or agency.

Note 2: Vehicles transferred by reclassification should specifically identify by footnote the gaining and losing category, i.e., one each 2-1/2 T truck to special purpose.

Subpart 109-38.49 Forms and Reports

§109-38.4951 Special purpose vehicles.

SPECIAL PURPOSE VEHICLES

FY 19__

	TOTALS
1. Vehicles on Hand, October 1	
2. Acquisitions	
3. Disposals	
4. Vehicles on Hand, September 30	
5. Cost of Vehicles Acquired	
6. Proceeds from Sales	
7. Net Cost (Line 5 minus 6)	
8. Number Assigned from Interagency Motor Pools (Term Basis)	
9. Cost of 8 above	
10. Number of Rented Com- mercially (Term Basis)	
11. Cost of 10 above	

Subpart 109-38.49 Forms and Reports

§ 109-38.49-2 Supplemental age and mileage analysis.

SUPPLEMENTAL AGE AND MILEAGE ANALYSIS

Model	NUMBER OF VEHICLES, BY CUMULATIVE MILES OPERATED										TOTAL
	0 TO 999	1,000 TO 9,999	10,000 TO 19,999	20,000 TO 29,999	30,000 TO 39,999	40,000 TO 49,999	50,000 TO 59,999	60,000 TO 79,999	80,000 TO 99,999	100,000 AND OVER	
CURRENT YEAR											
PRECEDING YEAR											
2ND PRECEDING YEAR											
3RD PRECEDING YEAR											
4TH PRECEDING YEAR											
5TH PRECEDING YEAR											
6TH PRECEDING YEAR											
7TH PRECEDING YEAR											
8TH PRECEDING YEAR											
9TH PRECEDING YEAR											
10TH PRECEDING YEAR											
TOTAL											

Subpart 109-38.50—Utilization of Motor Vehicles

§ 109-38.5000 General.

To keep the number of motor vehicles at the minimum which will adequately satisfy program requirements, continuing attention shall be given to developing and implementing methods and practices which will help achieve the most practical and economical utilization of vehicles.

§ 109-38.5001 Utilization practices.

Methods and practices for achieving maximum economical utilization of motor vehicles shall include but not be limited to—

(a) The maximum use of equipment pooling arrangements, taxicabs, or other common service arrangements;

(b) The minimum, practicable assignment of equipment to individuals, groups, or specific organizational components;

(c) Frequent review of vehicle utilization statistics by appropriate levels of management;

(d) The careful selection of equipment types to permit the maximum appropriate use of multipurpose equipment;

(e) The rotation of equipment between high and low mileage assignments where practicable to maintain the fleet in the best overall replacement age and mileage balance and operating economy; and

(f) The maintenance of individual equipment use records, such as trip tickets or vehicle logs, showing sufficiently detailed information to evaluate appropriateness of assignment and adequacy of use being made. If one-time use is involved, such as assignments from motor pools, the individual's trip records must, as a minimum, identify the vehicle and show the name of the operator, dates, destination, time of departure and return, and mileage.

§ 109-38.5002 Use objectives for motor vehicles.

The following use goals are established for DOE as average objectives:

(a) Sedans and station wagons—3,000 miles per quarter or 12,000 miles per year.

(b) Light trucks and general purpose vehicles, 1 ton and under (less than 12,500 GVW)—10,000 miles per year.

(c) Medium trucks and general purpose vehicles, 1½ ton through 2½ ton (12,500 to 16,999 GVW)—7,500 miles per year.

(d) Heavy trucks and general purpose vehicles, 3 ton and over (17,000 GVW and over)—7,500 miles per year.

(e) Truck tractors—10,000 miles per year.

(f) All-wheel-drive vehicles—7,500 miles per year.

(g) Other motor vehicles—no average use goals for other trucks, ambulances, buses, and special purpose vehicles are established. The use of such equipment shall be reviewed and necessary action taken to ensure that the equipment is fully utilized or declared excess to the Department's needs.

§ 109-38.5003 Application of use goals.

Individual motor vehicle utilization cannot always be measured or evaluated strictly on the basis of miles operated or against any departmentwide mileage standard. Other measures of use will need to be considered. Accordingly, as an aid in achieving maximum feasible utilization, local use objectives which represent practical units of measurement for vehicle utilization and for planning and evaluating future vehicle requirements should be established. Such objectives should generally be initiated by the organization involved and reviewed and adjusted as appropriate, but not less often than annually. The objectives will take into consideration past performance, future requirements and special operating conditions and should be consistent with the justifications used to obtain vehicle authorizations.

Subpart 109-38.51—Acquisition of Motor Vehicles

§ 109-38.5100 General requirements.

The acquisition of motor vehicles shall be limited to the minimum number needed to adequately serve program requirements. Any additions to the fleet must be fully justified and the justification shall include satisfaction that established utilization objectives are being achieved.

§ 109-38.5101 Authority required for purchase or hire of passenger motor vehicles.

§ 109-38.5101-1 Statute.

(a) 31 U.S.C. 638a(a) provides that no appropriation shall be available for the purchase or hire of passenger motor vehicles unless specifically authorized by the appropriation concerned or other law. Such authority will generally be included in the annual appropriation acts for DOE. These acts usually are specific as to the number of passenger motor vehicles which may be purchased and whether they are to be "replacements" or "additions." Any authority for DOE to hire passenger motor vehicles is also contained in the acts (although numbers are not specified).

(b) 31 U.S.C. 638a(e) provides that the acquisition of passenger motor vehicles by any agency by transfer from another department of the Government shall be considered as a purchase within the meaning thereof.

§ 109-38.5101-2 Administration of the requirements of the statute with respect to acquisition of passenger motor vehicles.

In implementation of the provisions of 31 U.S.C. 638a (a) and (e) and the Comptroller General's Decision B-154282, dated October 15, 1966, passenger motor vehicles may not be acquired by purchase or transfer unless they are—

(a) Specifically authorized by the Director of Procurement and Contracts Management, pursuant to the appropriation concerned or other law;

(b) Acquired from excess without reimbursement for upgrading or replacement purposes and an equal number of replaced vehicles are reported for disposal as excess within 30 days; or

(c) For temporary emergency needs not in excess of three months in lieu of commercial rentals.

§ 109-38.5101-3 Administration of the requirements of the statute with respect to the hire or loan of passenger motor vehicles.

(a) Inclusion of specific authority in the DOE appropriation or other law is sufficient basis for hiring passenger motor vehicles.

(b) Prior to commercial rental, temporary vehicle needs which cannot be filled by GSA motor pools shall be obtained from available excess (or other Federal agencies on a loan basis) to the greatest extent feasible and economical. Excess (or loaned) vehicles may be acquired to fill temporary needs for periods not to exceed three months without specific Headquarters approval or without charging against the number authorized for purchase. If, however, it becomes desirable to extend the use of such vehicles in excess of three months, they shall be charged against the number authorized for purchase unless otherwise approved by the Procurement and Contracts Management Directorate (PR-221). (Comp Gen B-154282 dated October 15, 1965.)

§ 109-38.5101-4 Limitation on unit cost of sedans and station wagons.

(a) Pub. L. 91-423 dated September 26, 1970, amends paragraph (1) of subsection (c) of section 5 of the Act of July 16, 1914, as amended (31 U.S.C. 638a), and provides that: "unless otherwise specifically provided, no appropriation available for any department shall be expended * * * to purchase any passenger motor vehicle (exclusive of buses and ambulances), at a cost, completely equipped for operation, and including the value of any vehicles exchanged, in excess of the maximum price therefor, if any, established pursuant to law by a Government agency and in no event more than such amount as may be specified in an

appropriation or other Act, which shall be in addition to the amount required for transportation."

(b) The above amendment continues as follows: "A passenger motor vehicle shall be deemed completely equipped for operation if it includes the systems and equipment which the Administrator of General Services finds are customarily incorporated into a standard passenger motor vehicle completely equipped for ordinary operation. Notwithstanding any other provisions of law, additional systems or equipment may be purchased whenever the Administrator finds it appropriate. The price of such additional systems or equipment shall not be considered in determining whether the cost of a passenger motor vehicle is within any maximum price otherwise established by law." The Administrator of General Services has issued instructions to Federal agencies for procurement of additional systems and equipment in FPMR 101-25.304 and 101-26.501.

(c) The essentiality of additional systems and equipment shall be based on requirements for safety, efficiency, economy, suitability of the vehicle for purposes intended and fuel economy.

(d) Requests may be made in the annual budget estimates, where appropriate, for the cost of additional systems and equipment on sedans and station wagons, including those police-type vehicles necessary for security purposes. Actual purchase of passenger vehicles shall be made only after allocation by the Director of Procurement and Contracts Management based on Congressional authorizations contained in the Departmental appropriation acts.

§ 109-38.5101-5 Passenger motor vehicle allocations.

(a) To assure that DOE purchases do not exceed the number of passenger motor vehicles authorized to be purchased in any fiscal year, the Director of Procurement and Contracts Management shall allocate to field offices the number that they may purchase and shall inform them of the number of passenger motor vehicles which may be purchased. These allocations and applicable unit cost limitations shall not be exceeded.

(b) In order that unused authority to purchase may be reallocated, the offices concerned shall notify the Procurement and Contracts Management Directorate (PR-221) when allocations will not be used. Such notification shall be submitted as soon as possible but not later than June 15 of each year.

(c) In order that passenger vehicles no longer needed by one field office may be used by another, either by actual transfer for continued use or as replacement off-sets, they shall be re-

ported to the Procurement and Contracts Management Directorate (PR-221) prior to any disposal action so that such use can be properly coordinated within DOE.

§ 109-38.5102 Procurement.

(a) Policies and procedures for the purchase of new motor vehicles, including provisions for the procurement of additional systems and equipment for sedans and station wagons, are set forth in FPMR 101-26.5 and DOE-PR 9-5.52.

(b) Selection guidelines for justification of air-conditioning and other additional systems and equipment, with respect to procurement of new sedans and station wagons and procurement for installation in such vehicles already in service, are contained in FPMR 101-25.304, and 101-26.501.

(c) Special procedures relating to the delivery, inspection, and acceptance of motor vehicles are provided in FPMR 101-26.501-6. These special procedures are designed primarily to identify and report on deliveries of unsatisfactory motor vehicles ordered by GSA.

Subpart 109-38.52—Aircraft

§ 109-38.5200 Scope of subpart.

This subpart establishes basic policies and procedures that apply to the management of aircraft and aircraft services. The policies and procedures set forth herein are the minimum required, and the head of each field office operating aircraft shall issue such supplemental instructions as may be needed to ensure efficient management of aircraft.

§ 109-38.5201 Definitions.

As used in this subpart the following definitions apply:

(a) "Aircraft" means a device that is used or intended to be used for flight in the air, including: heavier than air and lighter than air aircraft, airplanes, gliders, helicopters, rigid and nonrigid airships, and balloons.

(b) "Chartered aircraft" are aircraft rented or hired on an intermittent basis, with or without a pilot or other operating aircrew members.

(c) "Leased aircraft" are aircraft obtained on a contractual basis, for a stipulated time interval, as distinguished from intermittent charter or short-term rental.

(d) "Military aircraft" are aircraft on loan from the Department of Defense (DOD).

(e) "Pilot" is an individual possessing the required FAA credentials and meeting the qualification requirements and other criteria as required by the employing office.

(f) "Part-time pilot" is one who is employed specifically to operate aircraft on a "when-needed" basis.

§ 109-38.5202 General.

Departmentwide policies, standards, guidelines and procedures for management of aircraft and aviation services, necessary staff assistance, and general liaison with other Federal agencies are provided by the Director of Procurement and Contracts Management.

§ 109-38.5203 Aircraft safety.

(a) Policy development and general overview of aircraft safety in Departmental operations is exercised by the Assistant Secretary's for Environment operational and environmental safety staff.

(b) Minimum aviation operations and aircraft safety standards, criteria and procedures for DOE aviation operations shall be established by the Assistant Secretary's for Environment operational and environmental safety staff in coordination with the Procurement and Contracts Management Directorate and heads of field offices. Heads of field offices may establish higher safety standards, criteria and procedures when they have determined that it is necessary to assure the safety of specific operations under their jurisdiction.

§ 109-38.5204 Pilot responsibility and authority.

(a) It shall be the responsibility of the pilot to be aware of and conform to Federal Aviation Regulations and other requirements of the Federal Aviation Administration, Departmental policies and field office directives, and the regulations and directives of other applicable authority, including those relating to use for official purposes only.

(b) The maintenance and repair of aircraft are also the responsibility of the pilot who shall be responsible for determining that the aircraft is airworthy and that the required FAA maintenance checks are performed periodically and on schedule.

(c) The pilot is at all times responsible for the safe operation of his aircraft and for the safety of his crew and passengers. Insofar as the loading of the aircraft, weather, mechanical, and other safety conditions are concerned, the pilot shall have final authority for determining whether a particular flight shall be continued or terminated and how it shall be made.

§ 109-38.5205 Acquisition of aircraft.

§ 109-38.5205-1 Statute.

(a) 31 U.S.C. 638a(b) provides that no appropriation shall be available for the purchase, maintenance or operation of any aircraft, unless specifically authorized by the appropriation concerned or other law. Such authority will generally be included in the annual appropriation acts for DOE.

These acts usually are specific as to the number of aircraft which may be purchased, and whether they are to be "replacements" or "additions." Any authority for DOE to hire aircraft is also contained in these acts (although numbers are not specified).

(b) 31 U.S.C. 638a(e) provides that the acquisition of aircraft by any agency by transfer from another department of the Government shall be considered as a purchase within the meaning thereof.

§ 109-38.5205-2 Approval requirements.

(a) All proposed acquisitions of aircraft (with or without reimbursement) except for temporary (30 days or less) rentals or loans shall be referred to the Director of Procurement and Contracts Management for prior approval. Temporary rental or loans (30 days or less) may be approved by heads of field offices.

(b) The acquisition of specific aircraft by type shall be coordinated with the Assistant Secretary's for Environment operational and environmental safety staff to assure that the selected aircraft type can perform the mission requirements safely and meet all applicable safety standards.

(c) Because of the limitation on the number of aircraft which DOE may acquire, replaced aircraft shall be removed from service and disposed of prior to or as soon as practicable after delivery of the replacement equipment to avoid concurrent operation of both aircraft.

§ 109-38.5205-3 Acquisition from excess sources.

Acquisition from excess sources is encouraged when there is specific authority for additional or replacement aircraft. Aircraft may also be acquired from excess sources for upgrading or replacement purposes: *Provided* (a) That such acquisition is without reimbursement, and (b) that an equal number of aircraft is reported to GSA as excess within 30 days after delivery of the replacement aircraft. The aircraft being declared excess should not be routinely circularized within the Department. The SF 120, Report of Excess Property, shall be annotated to identify the GSA transfer order number shown on the transfer document for the replacement aircraft, and a copy of the SF 120 shall be forwarded to the Procurement and Contracts Management Directorate (PR-221). Prior to the acquisition of aircraft from any excess source, the Federal Aviation Administration should be contacted to ensure that the Federal Aviation Regulations authorize the type of operations to be conducted and that the aircraft can be certified as airworthy without extensive or costly modification.

§ 109-38.5205-4 Notification of acquisition authorization.

To assure that acquisitions do not exceed the number of aircraft authorized by statute to be acquired in any fiscal year, the Director of Procurement and Contracts Management shall inform DOE field offices each fiscal year of the number of aircraft which may be acquired. These authorizations shall not be exceeded.

§ 109-38.5206 Management responsibility.

The head of each field office having an aircraft operation shall establish procedures to insure—

(a) That the acquisition of aircraft, including military aircraft, is centrally controlled to insure that authorizations are not exceeded;

(b) That each aircraft is equipped with the instruments, accessories, radio, navigational aids, safety equipment, and survival gear necessary for the safe performance of each operating mission, including the installation of aircraft crash position indicators as needed. Safety equipment shall include, as a minimum, seat belts and/or shoulder harnesses for the pilot and all passengers, at least one emergency fire extinguisher, and a first aid kit. Aircraft used on night flights and/or under other than visual flight rules (VFR) conditions shall be equipped for instrument flight (IFR). Life jackets shall be provided and readily available for all occupants of aircraft on extended overwater flights as defined in Federal Aviation Regulation 1.1. Aircraft on flights into isolated areas shall be equipped with emergency rations and appropriate survival gear;

(c) Conformance with Federal Aviation Administration requirements for the registration, certification, maintenance, and operation of aircraft, engines, and component equipment;

(d) Selection of qualified pilots and crew members and the maintenance of pilot and crew competence commensurate with job requirements;

(e) Establishment of dispatching and tracking procedures or other controls that will assure knowledge of aircraft location when operating in areas where flight plan service is not available;

(f) Overall safe, efficient, and economical operation, maintenance, utilization, and replacement of aircraft;

(g) The pooling of usage as a means of increasing utilization;

(h) That contract or charter pilots are duly certified to meet all requirements and regulations established by the Federal Aviation Administration for the particular aircraft, and that chartered, leased, or rented aircraft are operated and maintained in compliance with all rules, regulations, and minimum standards of the Federal Aviation Administration. Any rental or

hire of aircraft and operators meeting no more than the minimum basic operating standards of part 91 of the Federal Aviation Regulations is discouraged, and such marginally safe aircraft and operators shall not be used to transport passengers or hazardous cargo; and

(i) That all pilots are aware of the provisions of 31 U.S.C. 638a(c)(2) which prohibits the use of any Government-owned or -leased aircraft for other than official purposes (see subpart 109-38.54).

§ 109-38.5207 Registration and identification.

(a) Department-owned aircraft shall be registered with the Federal Aviation Administration. The certificate of registration shall be displayed in the aircraft in accordance with FAA requirements. A similar requirement shall be included in any arrangement for the charter, rent, hire, or lease of aircraft.

(b) All aircraft shall display markings as required by the Federal Aviation Regulations for registered aircraft of the United States.

§ 109-38.5208 Airworthiness.

With the exception of public use aircraft being operated under special regulations of the Federal Aviation Administration, all aircraft shall be required to have a currently effective Federal Aviation Administration Airworthiness Certificate appropriate to the proposed usage. This certificate shall be displayed in the aircraft. Exceptions to this requirement are (a) uncertified aircraft may be ferried with minimum crew when there is a written determination by the head of the field office of his designee that the aircraft is safe for flight, and (b) aircraft obtained by transfer from the Department of Defense or the U.S. Coast Guard may be ferried incident to such transfer when the aircraft has been released as airworthy for flight.

§ 109-38.5209 Maintenance.

As a minimum, all aircraft, aircraft engines, propellers, accessories, and equipment shall be maintained and serviced in accordance with Federal Aviation Administration requirements for air carrier and non-air carrier aircraft, as appropriate, and the instructions of the manufacturer. All repairs and alterations shall be performed and approved in accordance with applicable FAA or military standards and requirements. Preventive maintenance inspections shall be made of the airframe, engine, and accessory equipment in conformance with the equipment manufacturer's recommendations and FAA or military requirements, as applicable.

§ 109-38.5210 Operation.

(a) Flight operations must comply with the Federal Aviation Regulations, and responsibility for such compliance rests with the pilot of the aircraft (§ 109-38.5204). Any special problem requiring deviation from the regulations shall be submitted through normal administrative channels to the Assistant Secretary's for Environmental operational and environmental safety staff for review and possible referral to the FAA for an appropriate waiver. Such a waiver is required for all fixed-wing aircraft engaged in low-level flying, and any change of conditions shall be reported to the responsible FAA District Office.

(b) Flight plans are required for all flights over isolated areas, and are also required for flights under visual flight rules (VFR) conditions except where the flight is of a local nature. Where normal flight plan channels are not available, a flight dispatching and tracking procedure or other control shall be followed that will assure current knowledge by responsible DOE or DOE contractor personnel of the aircraft's operating plan and of its arrival at destination.

(c) Aircraft, engines, and equipment shall be operated within the operating limits prescribed by the manufacturer.

(d) Adequate preflight and in-flight check lists shall be provided to, and used by, all pilots. A visual preflight inspection shall be made by the pilot before each takeoff, and any deficiency which might affect the safety of the flight shall be corrected before takeoff.

(e) All flights shall be planned and conducted so that the aircraft will arrive over its destination with a fuel reserve sufficient to reach a planned alternate destination. Flights conducted under FAA Instrument Flight Rules shall be required to conform to FAA fuel time minimum requirements, or better.

§ 109-38.5211 Records.

As a minimum, flight, aircraft, and engine logs shall be maintained in accordance with FAA requirements, and records of operation and maintenance shall be maintained as required for management, budgetary and reporting purposes. Heads of field offices shall establish requirements for other records needed.

§ 109-38.5212 Reports.

(a) Reports shall be submitted as required by the Federal Aviation Administration, the National Transportation Safety Board, the Assistant Secretary's for Environment operational and environmental safety staff and others. Heads of field offices shall establish the requirements for other re-

ports that may be needed for management or other purposes.

(b) All accidents involving aircraft shall be reported promptly to the National Transportation Safety Board, Federal Aviation Administration as required, the head of the field office concerned and the Assistant Secretary's for Environment operational and environmental safety staff.

Subpart 109-38.53—Cost Reductions Obtainable Through Cross-Servicing Arrangements for Motor Vehicle Fuel and Oil

§ 109-38.5300 Scope of subpart.

This subpart provides instructions for application of Gas Bulletin FPMR G-36, "Cost Reduction Obtainable Through Cross-Servicing Arrangements for Motor Vehicle Fuel and Oil," and submission of reports required by that Bulletin.

§ 109-38.5301 Submission of reports.

Headquarters and field offices shall prepare semi-annual reports as of September 30 and March 31 which will include the information requested in paragraph 5, GSA Bulletin FPMR G-36. The reports shall be submitted through normal administrative channels to the Procurement and Contracts Management Directorate (PR-221) by October 10 and April 10 of each year. A negative report is required.

Subpart 109-38.54—Official Use of Motor Vehicles and Aircraft

§ 109-38.5400 Scope of subpart.

This subpart supplements FPMR Part 101-38, implements the provisions of statutes concerning the use of Government-owned or -leased motor vehicles and aircraft for official purposes and prescribes policies and procedures governing the use of such vehicles and aircraft acquired for official purposes.

§ 109-38.5401 Statutory requirement.

(a) 31 U.S.C. 638a(c)(2) provides "Unless otherwise specifically provided, no appropriation available for any department shall be expended * * * for the maintenance, operation, and repair of any Government-owned passenger vehicle or aircraft not used exclusively for official purposes; and 'official purposes' shall not include the transportation of officers and employees between their domiciles and places of employment, except in cases of medical officers on outpatient medical service and except in cases of officers and employees engaged in field work the character of whose duties makes such transportation necessary and then only as to such latter cases when the same is approved by the head of the department concerned. Any officer or employee of the

Government who willfully uses or authorizes the use of any Government-owned passenger motor vehicle or aircraft or of any passenger motor vehicle or aircraft leased by the Government, for other than official purposes or otherwise violates the provisions of this paragraph shall be suspended from duty by the head of the department concerned, without compensation, for not less than one month and shall be suspended for a longer period or summarily removed from office if circumstances warrant * * *"

The above statute is interpreted to preclude reimbursement to Government contractors for the maintenance, operation or repair of Government-owned or -leased passenger motor vehicles or aircraft which are used by contractor personnel for other than official purposes.

(b) Under the provisions of 18 U.S.C. 641, any person who knowingly misuses any Government property (which includes Government motor vehicles) is subject to criminal prosecution and, upon conviction, to fines up to \$10,000 or imprisonment for up to 10 years.

§ 109-38.5402 Policy.

All Government-owned or -leased motor vehicles and aircraft operated by DOE and its contractors shall be utilized for official purposes only, and officers, employees and contractors of the Department shall not use or authorize others to use any Government-owned or -leased motor vehicles or aircraft for other than official purposes.

§ 109-38.5403 Official purposes.

(a) The term "official purposes" means those purposes required to carry out authorized programs, including program work carried out under contracts made pursuant to authority vested in the Department. "Official purposes" largely is a matter of administrative discretion and determination based on the particular facts of the case and the Government interest in the proposed use of the Government motor vehicle. It is the responsibility of the person authorizing or approving the use to examine the circumstances surrounding such use and assure that the facts sufficiently justify a conclusion of "official purpose."

(b) The term "field work" as used in 31 U.S.C. 638a quoted above refers to the nature of the work performance; is not restricted to "field service" as distinguished from "Headquarters service."

§ 109-38.5404 Approval of authorizations.

(a) The Director of Administration and heads of field offices may approve the use of a Government-owned or -leased motor vehicle between a DOE employee's domicile and place of employment. This authority may be re-

delegated. Redlegation shall not be below the chief administrative officer level.

(b) Heads of field offices and contracting officers shall require contractors to assure that—

(1) Contractors prescribe and issue, subject to approval by the head of the field office or contracting officer, such local written guidelines regarding the official use of motor vehicles or aircraft as may be necessary and appropriate for particular operating situations;

(2) The use of Government-owned or -leased motor vehicles or aircraft by contractor employees for transportation between places of employment and domiciles, including their storage at or near such domiciles, conforms to official use policies and guidelines, and that they make and document appropriate administrative determinations, authorizations, or approvals for such use and storage by contractor employees at appropriate supervisory levels within the contractors' organizations.

(c) Except as provided in §109-38.5407, the approving official shall determine the nature of the field duties of the employees which makes such transportation necessary. Approvals shall be in writing.

§ 109-38.5405 Duration of authorizations.

An authorization to use a motor vehicle for transportation between a domicile and place of employment shall be limited to the period of actual need. Where such need extends beyond a year, each authorization shall be limited to a single year. Requests for renewals of authorizations shall be subject to the same justification as original requests, and must also show what attempts were made during the original period to eliminate the necessity for the request.

§ 109-38.5406 Use of a motor vehicle to drive to residence at start of official travel.

The use of a Government motor vehicle by an officer or employee to drive to his residence when it is in the interest of the Government that he start on official travel in the vehicle from that point, rather than from his place of business, is not regarded as prohibited by 31 U.S.C. 638a(c)(2), (25 Comp. Gen. 844) or by Departmental policy.

§ 109-38.5407 Use of Government-owned or -furnished motor vehicles in travel status.

The use of Government-owned or Government-furnished motor vehicles by Government employees while in travel status is governed by the Federal and DOE Travel Regulations.

§ 109-38.5408 Use of Government-owned or -leased bus systems.

The provisions of this subpart do not affect passenger use of Government-owned or -leased bus systems (regardless of type of vehicle used in such system) established under the provisions of section 161e of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2201e).

§ 109-38.5409 Use of Government motor vehicles in emergencies.

In limiting the use of Government motor vehicles to official purposes, it is not intended to preclude their use in emergencies threatening loss of life or property (see §109-1.5102). Such use shall be documented.

§ 109-38.5410 Use of motor vehicles by the Postal Service.

(a) Section 411 of the Postal Reorganization Act provides that executives agencies are authorized to furnish property and services to the Postal Service under such terms and conditions, including reimbursability, as the Postal Service and the agency concerned deem appropriate. Executive Order 11672 establishes a requirement for reimbursement at fair market value of such property or at a rate based on appropriate commercial charges for comparable property, as agreed to by the agency head and the Postmaster General, unless the Director of the Office of Management and Budget finds that a different basis of valuation is more equitable or better serves the public interest.

(b) Pursuant to the authority in 39 U.S.C. 411, motor vehicles may be made available to the Postal Service for temporary use, particularly during the Christmas season. The rental rate to be charged shall be the same as is charged by the General Services Administration for similar motor vehicles available from the interagency motor pool serving the geographical area involved, with appropriate allowances for any fuel and oil furnished by the Postal Service.

§ 109-38.5411 Instructions to motor vehicle operators.

Procedures shall be established to insure that motor vehicle operators are informed concerning—

(a) The statutory requirement that motor vehicles shall be used only for official purposes;

(b) Personal responsibility for safe driving and operation of motor vehicles, and for compliance with Federal, State, and local laws and regulations, and all accident reporting requirements;

(c) Protection under the Federal Tort Claims Act (28 U.S.C. 2671) when acting within the scope of his/her employment;

(d) The penalties for unauthorized use of motor vehicles;

(e) The prohibition against picking up strangers or hitchhikers; and

(f) Any other duties and responsibilities assigned to motor vehicle operators with regard to the use, care, operation, and maintenance of motor vehicles.

PART 109-39—INTERAGENCY MOTOR VEHICLE POOLS

Subpart 109-39.3—Motor Vehicle Exemptions

§ 109-39.302 Unlimited exemptions.

In those instances where it is determined that an unlimited exemption from inclusion of a vehicle in the Interagency Motor Pool System is warranted under the criteria set forth in FPMR 101-39.302, full particulars shall be forwarded to the Procurement and Contracts Management Directorate (PR-221) for consideration and possible referral to the Administrator of General Services.

§ 109-39.303 Limited exemptions.

The procedure established in §109-39.302 shall be followed in seeking limited exemptions under the criteria set forth in FPMR 101-39.303.

Subpart 109-39.4—Establishment, Modification and Discontinuance of Motor Pools

§ 109-39.404-3 Problems involving service or cost.

To resolve problems involving motor pool service or cost, the affected field or Headquarters organization shall bring the matter to the attention of the chief of the motor pool providing the vehicles. In the event a satisfactory solution does not result, full particulars shall be forwarded to the Procurement and Contracts Management Directorate (PR-221), for consideration and possible referral to the Administrator of General Services.

§ 109-39.404.4 Agency requests to withdraw participation.

Should circumstances arise at a given interagency motor pool location which tend to justify discontinuance or curtailment of participation by a DOE organization, the participating organization should forward complete details to the Procurement and Contracts Management Directorate (PR-221) for consideration and possible referral to the Administrator of General Services.

Subpart 109-39.5—Services

§ 109-39.502 Services available.

§ 109-39.502-50 Commercially rented vehicles available through Interagency Motor Pools.

(a) Interagency motor pool locations, services, and rental rates are published periodically by GSA in a leaflet for the current information and guidance of Federal agencies. Availability of this publication and details concerning distribution are announced in GSA Bulletins.

(b) Details concerning the availability and arrangements for GSA contract commercial rental car services are contained in Federal Supply Schedule, Industrial Group 751, Motor Vehicle Rental Without Driver and in a leaflet, "Traveler's Pocket Guide." Copies may be obtained from GSA regional offices.

Subpart 101-39.6—Official Use of Government Motor Vehicles and Related Motor Pool Services

§ 109-39.601 General requirements.

(a) The head of each office operating leased vehicles is designated as responsible for certifying that leased vehicles larger than Type II (compact) are essential to the mission of the particular organization concerned.

(b) New requirements for leased vehicles on a nationwide basis shall be submitted to the Procurement and Contracts Management Directorate (PR-221), for transmittal to the General Services Administration.

§ 109-39.602 Authorized use.

§ 109-39.602-1 Government vehicles.

(a) Subpart 109-38.54, Official Use of Motor Vehicles and Aircraft, prescribes DOE policies and procedures governing the official use of Government motor vehicles.

(b) The heads of field offices and the Director of Administration are responsible for compliance with FPMR 101-39.602-1(b), which places limitations on the use of Government-owned or -leased motor vehicles for official purposes.

SUBCHAPTER H—UTILIZATION AND DISPOSAL

PART 109-42—PROPERTY REHABILITATION SERVICES AND FACILITIES

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PART 109-44—DONATION OF PERSONAL PROPERTY

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Subpart 109-44.3—Donation of Foreign Excess Personal Property

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- 109-48.000 Scope of part.
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- 109-48.101-6 Transfer to other Federal agencies.
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- 109-50.000 Scope of part.
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- 109-50.300 Scope of subpart.
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 109-50.305-1 Director of Procurement and Contracts Management.
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- 109-50.400 Scope of subpart.

- 109-50.401 Definitions.
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 109-50.402-2 The Director of Administration.
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 109-50.404 Notification.

AUTHORITY: Title V, Department of Energy Organization Act (Pub. L. 95-91); Administrative Procedure Act, as amended (5 U.S.C. 551 et seq.).

PART 109-42—PROPERTY REHABILITATION SERVICES AND FACILITIES

§ 109-42.000 Scope of part.

This part implements and supplements FPMR Part 101-42, Property Rehabilitation Services and Facilities.

§ 109-42.000-50 Applicability.

The provisions of FPMR 101-42 and this part apply to contractors which generate used hyposolution, scrap film, other precious metals, scrap and other recoverable scrap materials.

Subpart 109-42.3—Recovery of Precious Metals and Critical Materials

§ 109-42.301-1 Guidelines for conducting intraagency surveys.

The intraagency survey required by FPMR 101-42.301-1 shall be prepared by each DOE organization and contractor that has no precious metal recovery program as directed by the Director of Procurement and Contracts Management. The format of the report is included in FPMR 101-42.4801.

§ 109-42.301-2 Reporting to GSA.

(a) The annual silver or other precious metals recovery report required by FPMR 101-42.301.2 shall be prepared by each DOE organization and contractor conducting a precious metal recovery program. The format of the report is included in FPMR 101-42.4802. Negative reports are required. A report shall also be submitted providing applicable information in those instances where activities use indirect methods of recovery by shipping the hyposolution or scrap film to another recovery activity or by disposal by sale.

(b) Individual reports shall cover the entire fiscal year and shall be forwarded to the appropriate field office for forwarding to the Procurement and Contracts Management Directorate (PR-221) not later than 30 days after the end of each fiscal year.

§ 109-42.302 Recovery of silver from used hyposolution and scrap film.

A program for recovery of silver from used hyposolution and scrap film is established for DOE. All DOE organizations and contractors shall recover silver from hyposolution and scrap film where economically feasible. Where an activity generates minimal amounts of hyposolution, consideration shall be given to combining output with another recovering activity as contemplated in FPMR 101-42.301-1.

§ 109-42.350 Platinum and platinum family.

See § 109-43.313-52 for procedures for reporting excess platinum for recovery and subsequent redistribution within DOE.

Subpart 109-42.50—Reclamation of Wastepaper

§ 109-42.5000 Scope of subpart.

This subpart implements and supplements 40 CFR 246, "Materials Recovery Guidelines for Source Separation" as issued by the Environmental Protection Agency (EPA), states DOE policy on reclamation of paper, and prescribes authorities and responsibilities of Heads of Headquarters organizations, heads of field offices, and other contracting officers.

§ 109-42.5001 Policy.

It is DOE policy that a program for recovery and reclamation of wastepaper shall be established at any DOE facility where such recovery is economically feasible, i.e., implementation and operating costs are not greater than revenue derived, in accordance with the criteria contained in 40 CFR Part 246.

§ 109-42.5002 Definition.

"DOE facilities" as used in this subpart means Government-owned or -leased buildings operated by DOE personnel or operating and onsite service contractors.

§ 109-42.5003 Responsibilities and authorities.

§ 109-42.5003-1 Responsibility for departmentwide coordination.

The Director of Procurement and Contracts Management is responsible for (a) representing the Department with EPA and other Federal agencies on matters relating to the recovery and reclamation of wastepaper at DOE facilities, (b) consolidating the departmental reports on recovery of wastepaper for submission to EPA, and (c) providing staff assistance to DOE organizations implementing the guidelines contained in 40 CFR Part 246.

§ 109-42.5003-2 Responsibility for implementing and conducting wastepaper recovery programs.

The Director of Administration, heads of field offices, and contracting officers are responsible for implementation and conduct of a wastepaper recovery program in accordance with 40 CFR Part 246 at DOE facilities under

their cognizance and shall submit the required reports to the Procurement and Contracts Management Directorate (PR-221) within 30 days after the end of each fiscal year in the format illustrated in § 109-42.5004.

§ 109-42.5004 Reports.

Wastepaper recovery reports shall be submitted in the following format:

Facility name and address	Number of office workers	Implementation date	Tons of wastepaper recovered	Revenue received
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PART 109-43—UTILIZATION OF PERSONAL PROPERTY

§ 109-43.000 Scope of part.

This part implements and supplements FPMR Part 101-43, Utilization of Personal Property.

§ 109-43.000-50 Applicability.

The provisions of FPMR Part 101-43 and this part are applicable to contractors unless otherwise provided herein.

§ 109-43.001 Definitions.

§ 109-43.001-5 Excess personal property.

The definition of excess personal property in FPMR 101-43.001-5 is supplemented to provide that excess personal property, generally referred to herein as "excess property," means personal property which is—

(a) Under the control of a DOE organization or contractor and not required for the holder's needs or in the discharge of its responsibilities and which has been documented as excess by a responsible DOE or contractor official having responsibility for its custody and accountability; or

(b) Under the control of any Federal agency, including DOE, and not required for its needs or the discharge of its responsibilities. Property is not considered to be excess to DOE until it has been determined that no requirement for the property exists within the Department.

§ 109-43.001-14 Personal property.

The definition in FPMR 101-43.001-14 is modified to read as follows: Personal property means property of any kind or type except real property; records; special source materials, which includes source materials and special nuclear material, and those other materials to which the provisions of DOE Manual part 7400 apply, such as deuterium, enriched lithium, neptunium 237 and tritium, and atomic weapons and byproduct materials as defined in section 11 of the Atomic Energy Act of

1954, as amended; enriched uranium in stockpile storage; and petroleum being held in reserve in the Strategic Petroleum Reserve and the Naval Petroleum Reserve.

§ 109-43.001-50 Nonreportable property.

"Nonreportable property" is excess personal property which is not required to be formally circularized within DOE or reported to GSA.

§ 109-43.001-51 Platinum.

"Platinum" means platinum family, including platinum, palladium, rhodium, iridium, ruthenium and osmium.

§ 109-43.001-52 Reportable property.

"Reportable property" is excess personal property which is required to be formally circularized within DOE and, if not required within DOE, reported to GSA.

Subpart 109-43.1—General Provisions.

§ 109-43.101 Surveys.

Each organization holding Government personal property shall continuously survey property under its control to assure efficient use and shall promptly make property excess to its needs available for use elsewhere. See § 109-25.109-1 for DOE policy on the conduct of management walk-through inspection tours to identify idle and unneeded equipment.

§ 109-43.102 Reassignment of property within executive agencies.

See DOE Order 2200, Chapter XI for preparation of the feeder reports upon which the consolidated DOE report of internal property reassignments is based.

§ 109-43.103 Agency utilization officials.

The Director of Procurement and Contracts Management shall designate the DOE National Utilization Officer.

Subpart 109-43.3—Utilization of Excess

§ 109-43.301-50 Policy.

It is the policy of DOE to consider excess property as the first source of supply. In no case, however, will excess property be acquired unless a present or foreseeable program need exists for the property. In carrying out this policy, the objective of which is to obtain maximum effective and economical utilization of property already owned by the Federal Government, consideration should be given to such factors as—

(a) Nature and cost of any repairs required to restore excess equipment to a safe, dependable, and economic operating condition;

(b) Duration of the job on which the equipment will be used;

(c) Economic feasibility of ownership vs. loan or rental of the equipment. Frequency of use, particularly where the equipment will be needed only infrequently, is one of the factors which must be considered in determining the most economical method of acquisition; and

(d) Handling and transportation costs involved in acquisition of excess property.

§ 109-43.302 Agency responsibility.

Procedures shall be established to assure the effective conduct of the excess property utilization program and to assure, to the fullest extent practicable, that excess personal property available within DOE or from other Federal agencies is used as a first source of supply in fulfilling requirements.

§ 109-43.302-50 Utilization and disposal by contractors.

Heads of field offices may authorize contractors to perform the functions pertaining to utilization and disposal of excess property, provided such activities are in accordance with written policies and procedures which they have approved as being consistent with this part and those contained in FPMR Part 101-45 and DOE-PMR Part 109-45.

§ 109-43.303-1 Acquisition of mercury.

Notwithstanding the provisions of FPMR 101-43.303-1, requests for 76 pound flasks of mercury, for use by DOE or its contractors, shall be forwarded to the Director, Supply Division, Oak Ridge Operations Office, Oak Ridge, Tenn.

§ 109-43.306 Property not required to be reported.

To the extent practicable and economical, notification of availability of nonreportable excess property shall be made on an informal basis to other DOE installations and other Federal

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agencies known to use such property. If no requirement is established within a reasonable time, usually not more than 30 days after the availability of the property is announced, the property will be considered surplus to the needs of the Government.

§ 109-43.311-1.50 Circularization within DOE.

(a) Prior to reporting excess personal property to GSA as required by FPMR 101-43.311-1, reportable property shall be listed and circularized as available excess within DOE using standard form 120, "Report of Excess Personal Property" and standard form 120a, "Continuation Sheet." Distribution patterns, points of contact, and number of copies of excess lists to be sent to DOE installations shall be issued annually by the Procurement and Contracts Management Directorate (PR-221) based on information submitted by the field offices. Revisions during the year shall be coordinated with the appropriate contacts by the DOE offices concerned. In cases where time does not permit the circularization of excess lists, notification of the availability may be made by telegram, teletype or telephone, with due consideration to the additional costs involved.

(b) A period of at least 15 calendar days from the date of transmittal should be allowed potential users within DOE to request the transfer of items listed. When necessary, an additional 15 calendar days may be allowed to permit potential users to inspect the property or to obtain additional information regarding the items on the list. Concurrent circularization of lists of DOE excess property within DOE and to other Federal agencies generally shall not be permitted.

(c) If, after DOE circularization, reportable property is known to be needed by another Federal agency, it shall be transferred as provided in FPMR 101-43.315-5(a).

§ 109-43.311-5 Property at installations due to be discontinued.

(a) In closing out installations or any activities where it is important that upon completion of the work the personnel be released and activities ended as quickly as possible in order to avoid large expenditures, arrangements may be made for expediting the utilization and disposal of excess inventories and other excess property. (See DOE-PR 9-8 for special provisions regarding disposition of contractor inventories arising out of termination of contracts.)

(b) DOE field organizations shall work with appropriate GSA regional offices to develop a utilization and disposal program which takes into con-

sideration all the factors involved, is expedited to the maximum degree, and is mutually satisfactory and in the best overall interest of the Government. When closeout involves an activity which is not located geographically in a DOE installation, information concerning the situation shall be given to the appropriate regional administrator of GSA, as early as possible, by letter (copy to the Procurement and Contracts Management Directorate (PR-221)). The information should include the type of property available and indicate that the activity is to be discontinued, the scheduled date for the removal of personnel from the location, and the last dates when the property will be needed.

The following guidelines are furnished for possible use, although variations may be used as long as agreement is reached with GSA and there is no conflict with DOE requirements except as noted in subparagraph (1) of this paragraph:

(1) If a proposed expedited program provides for deviation from the DOE policy or procedural requirements, approval of the Director of Procurement and Contracts Management shall be obtained.

(2) Approval of the proposed plan by the appropriate GSA regional office, when deviation from existing GSA regulations is involved, will be sufficient to validate the plan. A copy of the approval plan should be forwarded for information to the Procurement and Contracts Management Directorate (PR-221).

(3) In developing an expedited disposal program, property shall be determined to be excess to DOE before it is reported to GSA. Concurrent circularization of lists of DOE excess property within DOE and to other Federal agencies generally is not permitted.

(4) Summary catalog listings of certain categories of excess property, such as property in classes 48, 51, 55, 56, etc., showing estimated release dates, might be furnished GSA with good utilization results. On the other hand, excess property in such classes as 23, 24, 32, 34 and 38 shall normally be listed by individual item with sufficient description for ready identification.

(5) In order to obtain maximum utilization of the property by other Federal agencies, the plan shall provide that the field office will furnish assistance to GSA, upon request, to arrange for invitational inspections by Federal agency representatives.

(6) Upon request, DOE can provide assistance to GSA in its circularization of reportable items to other Federal agencies or in locating potential users within the government.

(7) Care should be exercised to be sure that orders from other Federal

agencies for excess property are processed through GSA, as may be required by the GSA regional office concerned.

(8) Although it may be possible to arrange for expediting donations for educational, public health, or civil defense purposes, adequate time must be allowed for the screening of all donable property.

(9) Provisions should be made for accelerated release by GSA of excess property for disposal as surplus, particularly where there is little or no potential use by other Federal agencies.

(10) Methods should be developed whereby last minute requests for surplus property, cataloged for an auction sale or listed in a sealed bid invitation and inspected by prospective bidders, can be kept to a minimum.

§ 109-43.312 Exceptions to reporting.

In addition to the categories of non-reportable property identified in FPMR 101-43.312 (a) through (g), the following property, when determined excess to a DOE installation, is not reportable and shall not be formally circularized within DOE or reported to GSA—

(h) Asphalt products in less than carload (LCL) quantities (roofing tile, paving materials);

(i) Cement and fabricated cement products in LCL quantities (concrete block, pumic block, cinder block, pipe and fittings);

(j) Fabricated clay products in LCL quantities (brick, tile, pipe and fittings);

(k) Fuels in LCL quantities (gasoline, diesel fuels, coal and coke and kerosene);

(l) Special purpose or site fabricated shelving, cabinets, shop tables, etc., of limited adaptability or with high cost of disassembly or transportation;

(m) Uncrated window glass; and

(n) Equipment, parts, accessories, jigs and components, which are of special design, composition, or manufacture and which are intended for use only by specific DOE installations, such as spare parts for equipment used in atomic processes.

§ 109-43.313 Items requiring special handling.

§ 109-43.313-2 Printing, binding, and blankbook equipment and supplies.

DOE installations shall report excess printing, binding and blankbook equipment to the Office of Administration for processing in accordance with the Joint Committee on Printing Regulations.

§ 109-43.313-50 Classified property.

Classified personal property which is excess to DOE needs shall be stripped of all characteristics which cause it to

be classified, or otherwise rendered unclassified prior to disposal, in accordance with instructions of the head of the field office concerned. Declassification shall be accomplished in a manner which will preserve, so far as practicable, any civilian utility or commercial value of the property.

§ 109-43.313-51 Naval gun mounts.

When a naval gun mount obtained from the Naval Sea Systems Command, Department of the Navy, becomes excess, it may be listed, circularized, and transferred with DOE in the same manner as other excess property. However, when a naval gun mount is determined to be excess to DOE, it shall be reported to the Department of the Navy, Naval Sea Systems Command, Washington, D.C. 20360, and shall not be disposed of except in accordance with instructions of that Department.

§ 109-43.313-52 Platinum and platinum family.

All precious metals in the platinum family which become excess shall be reported to the Chicago Operations Office for recovery and/or subsequent redistribution within DOE. It is intended that any platinum which is not needed for current or foreseeable requirements shall be reported to the Chicago Operations Office. This means platinum in any form, including shapes, scrap, or which is radioactively contaminated. The Chicago Operations Office will furnish necessary shipping instructions. (For pricing of transfers, see DOE Order 2200, Chapter III.)

§ 109-43.313-53 Shielding material.

All excess movable shielding material of any type will be circularized within DOE using normal excessing procedures. However, prior to disposal outside DOE (by transfer to other Federal agencies or by sale), the procurement and Contracts Management Directorate (PR-221) shall be advised concerning the types and quantities which remain available.

§ 109-43.313-54 Property in which the Government has an interest.

Personal property in which the Government has an interest means (a) Government-owned property which is available for exchange or sale and (b) property leased with an option to purchase. Such property shall be circularized within DOE for possible utilization whenever it is practicable to do so, considering the contract terms, cost in relation to remaining useful life, location of item, purchase option time remaining, etc.

§ 109-43.313-55 Department of Defense excess.

An interagency agreement between DOE and the Department of Defense has been executed which permits certain DOE contractors to screen excess property listings from the Defense Property Disposal Service concurrently with military activities for use in support of DOE/DOD programs.

§ 109-43.315-5 Procedure for effecting transfers.

Notwithstanding the provisions of FPMR 101-43.315-5(b), in accordance with a DOE agreement with GSA, execution of transfer orders by a DOE official is not required in those cases where heads of field offices have authorized contractors to perform this function, and GSA has been notified of such authorization. GSA regional offices will furnish the cognizant DOE field office a copy of each transfer order received from contractors. This copy of the transfer order will be reviewed by the cognizant DOE field office to determine if the contractor has been authorized to submit orders for excess property. If the contractor submitting the transfer order to the GSA regional office has not been authorized in writing to submit such orders, GSA will not honor such requests unless they are subsequently executed by an appropriate DOE official.

§ 109-43.317 Costs and proceeds.

§ 109-43.317-1 Cost of care and handling.

DOE field offices and contractors shall comply with the provisions of DOE Order 2200, Chapter III as they relate to billings for direct costs incurred in the transfer of excess property.

§ 109-43.317-2 Proceeds.

For DOE procedures on the handling of proceeds from transfer of excess property to another Government agency with reimbursement, see DOE Order 2200, Chapter III.

§ 109-43.319 Use of excess property on cost-reimbursement type contracts.

(b) It is DOE policy for operating and onsite service contractors to use Government excess personal property to the maximum extent possible to reduce contract costs. However, the determination required in FPMR 101-43.319(b) does not apply to such contracts and the acquisitions of Government excess personal property by these contractors are not subject to the annual reporting requirements of FPMR 101-43.4701(c). The procedures prescribed in § 109-43.315-5 for execution of transfer orders apply.

§ 109-43.320 Use of excess property on grants.

The requirements of FPMR 101-43.320 do not apply to operating and onsite service contracts.

§ 109-43.321 Certification on non-Federal agency screeners.

Contracting officers shall maintain a record of the number of certified non-Federal agency screeners operating under their authority and shall immediately notify the appropriate GSA regional office of any changes in screening arrangements.

Subpart 109-43.5—Utilization of Foreign Excess Personal Property

§ 109-43.503 Holding agency responsibilities.

(a) Property which remains excess after utilization screening within the general foreign geographical area where the property is located should be reported to the Procurement and Contracts Management Directorate (PR-221) for consideration for return to the United States for further utilization within DOE, by other Government agencies, or for donation, based on such factors as cost, residual value, usefulness in ongoing or future programs, condition, and cost of transportation.

(b) If determined to be in the interest of the Government for return to the United States, the property shall be reported on excess listings (SF 120) to the accountable field office or Headquarters program organization. These listings should contain information on location and available transportation facilities in addition to the detailed descriptions required by FPMR 101-43.4901-120-1. The field office or Director of Administration, acting for the responsible Headquarters program organization, will circularize the property within DOE. If not claimed by a DOE activity, it shall be reported to the Procurement and Contracts Management Directorate (PR-221) for coordination with GSA.

§ 109-43.504-50 Disposition of property not selected for return to the United States.

Property not selected for return to the United States for utilization within DOE or the Government or for donation in accordance with FPMR 101-44.7 shall be disposed of in accordance with § 109-45.5105.

Subpart 109-43.47—Reports

§ 109-43.4701 Performance reports.

Instructions for submission of financial data for the reports required in FPMR 101-43.4701 (a) and (b) are contained in DOE Order 2200, Chapter XI. The report prescribed in FPMR

101-43.4701(c) does not apply to excess property acquired by operating and onsite service contractors.

Subpart 109-43.51—Utilization of Personal Property Held for Facilities in Standby

§ 109-43.5100 Scope of subpart.

This subpart supplements FPMR Part 101-43 by providing policies and procedures for the economic and efficient utilization of personal property associated with facilities placed in standby status.

§ 109-43.5101 Definition.

"Facility in standby" is a significant segment of plant and equipment, such as a complete plant or section of a plant, which is neither "in service" or declared "excess."

§ 109-43.5102 Policy.

Procedures and practices shall be established to assure economical and efficient utilization of property associated with facilities placed in standby status as provided for in this subpart.

§ 109-43.5103 Reviews to determine need for retaining items.

Procedures and practices shall be established which require an initial review at the time the plant is placed in standby to determine which items can be made available for use elsewhere within the established startup criteria, periodic reviews (no less than biennially) to determine need for continued retention of property, and special reviews when a change in startup time is made or when circumstances warrant, such procedures should recognize that (a) generally, equipment, spares, stores items, and materials peculiar to a plant should be retained for possible future operation of the plant, (b) where practicable, common-use stores should be removed and used elsewhere, and (c) uninstalled equipment and other personal property not required should be utilized elsewhere onsite or be disposed of as excess.

§ 109-43.5104 Utilization of property in facilities in standby status.

Procedures and practices shall be established which require that property comprising the plant in standby, to the extent consistent with program requirements reflected by the startup criteria, be considered as a source of supply prior to procurement. Such procedures should provide for (a) furnishing potential users and procurement officers or some other responsible screening office, both onsite and offsite, listings of equipment and other significant property holdings available for loan or transfer, and (b) removal and use elsewhere of installed equipment which can be replaced or

returned within the established startup criteria.

In addition to the above procedures, organizations should encourage informal contacts between their technical staffs and those engaged in similar work at other DOE locations for the purpose of ascertaining the availability of Government property to meet their program requirements.

PART 109-44—DONATION OF PERSONAL PROPERTY

§ 109-44.000 Scope of part.

This part implements and supplements FPMR Part 101-44, Donation of Personal Property. For donation of surplus personal property in foreign areas, see § 109-45.51.

§ 109-44.000-50 Policy.

It is the policy of the DOE to cooperate fully with all public agencies and their accredited representatives authorized to participate in the donation program. Upon reasonable request, DOE organizations shall make available complete information on surplus property held for disposal.

§ 109-44.000-51 Responsibilities and authorities.

Heads of field offices shall appoint officers to make findings and reviews as required in FPMR 101-44.7 relating to donation of property to public bodies. Decisions relating to the actual donation of Government personal property are to be reserved to the Government and cannot be delegated to contractors.

Subpart 109-44.3—Donation of Foreign Excess Personal Property

§ 109-44.301 Holding agency responsibility.

After utilization screening and prior to disposal in the foreign area, property shall be considered available for return to the United States for donation as provided in FPMR 101-44.7 and § 109-43.5.

§ 109-44.305 Costs incurred incident to donation.

For DOE procedures on costs incurred incident to donation, see DOE Order 2200, Chapter III.

Subpart 109-44.47—Reports

§ 109-44.4701 Reports.

Instructions for submission of financial data for this report are contained in DOE Order 2200, Chapter XI.

PART 109-45—SALE, ABANDONMENT, OR DESTRUCTION OF PERSONAL PROPERTY

§ 109-45.000 Scope of part.

This part implements and supplements FPMR 101-45, Sale, Abandonment, or Destruction of Personal Property, but does not apply to (a) sale or other disposal activities for deuterium, enriched lithium, atomic weapons, and byproduct, source and special nuclear materials, as defined in section 11 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2014), (b) properties which are sold or otherwise disposed of pursuant to special statutes, or (c) disposal of personal property in foreign areas (see § 109-45.51).

§ 109-45.000-50 Policy.

It is the policy of DOE to provide for the disposal of surplus personal property in an economical and efficient manner, and when sales are involved, for the fair and equal treatment of all prospective buyers, and for the protection of the Government's interests.

Subpart 109-45.1—General

§ 109-45.101-50 Applicability.

The provisions of FPMR Part 101-45 and this part are applicable to contractors which are authorized to dispose of surplus personal property.

§ 109-45.103 Sales responsibilities.

§ 109-45.103-1 Responsibilities of the General Services Administration.

GSA regional offices are responsible for the conduct of sales of surplus and replacement property in the custody of DOE direct operations, except that DOE will continue to sell replacement property where trade-in offers are also involved in the transaction.

§ 109-45.103-2 Responsibilities of holding agencies.

See § 109-45.105-3, exemptions, and § 109-45.3 for policy and procedures governing the sale of personal property by DOE contractors.

§ 109-45.105 Exclusions and exemptions.

§ 109-45.105-3 Exemptions.

The General Services Administration, by letter dated May 28, 1965, authorizes DOE contractors to sell contractor inventory, including replacement property. This exemption is for sales of contractor inventory only. All surplus property in the custody of DOE direct operations (except replacement property where trade-in offers are involved) will be reported to GSA in accordance with FPMR 101-45.303.

Subpart 109-45.3—Sale of Personal Property**§ 109-45.301-50 Sales by DOE contractors.**

Sales of contractor inventory will be made by DOE contractors when heads of field offices determine that it is in the best interests of the Government to do so.

§ 109-45.302-50 Sales to DOE and contractor employees.

(a) Employees of DOE and DOE contractors shall be afforded the same opportunity to purchase Government-owned property as is afforded the general public: *Provided*, The employees warrant in writing prior to award that they have not either directly or indirectly—

(1) Participated in the determination to dispose of the property;

(2) Participated in the preparation of the property for sale;

(3) Participated in determining the method of sale; or

(4) Acquired information not otherwise available to the general public regarding usage, condition, quality, or value of the property.

(b) Special clothing and other articles of personal equipment purchased for the exclusive use of and fitted to an individual employee, when not otherwise usable by, and in all respects excess to the needs of, the holding installation, may be sold to DOE or contractor employees at the best price obtainable in the event of termination of their employment or their permanent assignment to duties not requiring such clothing or equipment.

§ 109-45.303 Reporting property for sale.

(a) Reportable property. In those cases where GSA is to be responsible for the sales function, the GSA regional offices will normally initiate sales action from the list of items remaining as surplus on standard form 120 reports after utilization and donation screening. In order to assure no misunderstanding at GSA regional offices as to who is to perform the sales function, each standard form 120 report forwarded to GSA (whether for DOE or DOE contractor property) shall bear a capitalized notation in a prominent place reading either "To Be Sold By GSA" or "Not To Be Sold By GSA" as appropriate.

§ 109-45.303-1 Describing property.

DOE organizations shall assure that property reported or offered for sale is described accurately. In addition to the requirements contained in FPMR 101-45.303-1, particular emphasis should be placed on the accuracy of item quantities to achieve uniformly fair and reasonable disposition of all surplus personal property, protecting the interests of both the Government and the purchaser.

§ 109-45.304-2 Negotiated sales and negotiated sales at fixed prices.

(a) Negotiated sales, including purchases or retentions at less than cost by the contractor, may be made when the contracting officer determines and documents that the use of this method of sale is essential to expeditious contract closeout, or is otherwise justified on the basis of circumstances enumerated below, provided that the Government's interests are adequately protected. Negotiated sales, including purchases or retentions at less than cost by the contractor shall be at prices which are fair and reasonable and not less than the proceeds which could reasonably be expected to be obtained if the property was offered for competitive sale. Specific conditions justifying negotiated sales are when—

(1) No acceptable bids have been received as a result of competitive bidding under a suitably advertised sale;

(2) Property is of such small value that the proceeds to be derived would not warrant the expense of a formal competitive sale;

(3) The disposal will be to States, territories, possessions, political subdivisions thereof, or tax-supported agencies therein, and the estimated fair market value of the property and other satisfactory terms of disposal are obtained;

(4) The specialized nature and limited use potential of the property would create negligible bidder interest;

(5) Removal of the property would result in a significant reduction in value, or the accrual of disproportionate expenses in handling; or

(6) It can be clearly established that such action is essential to the Government's interests.

See FPMR 101-45.304-6 and § 109-45.304-6 for reviewing authority requirements.

(b) Negotiated sales at fixed prices. When determined to be in the best interests of the Government, heads of field offices may authorize fixed-price sales of contractor inventory by DOE contractors provided (1) the reasonable recovery value of the property to be sold to any one purchaser at any one time does not exceed \$100, (2) adequate procedures for publicizing such sales have been established, (3) the sales prices are not less than could reasonably be expected if competitive bid sales were employed and the prices have been approved by a reviewing authority designated by the heads of field offices, and (4) the warranty prescribed in § 109-45.302-50(a) is obtained when sales are made to employees.

§ 109-45.304-6 Reviewing authority.

The reviewing authority required under FPMR 101-45.304-6 may consist

of one or more persons designated by the head of the field office who will be responsible for providing an adequate and independent review of proposed sales for the purpose of determining whether—

(a) The method of sale is in accordance with established policies and procedures; and

(b) Proceeds constitute a reasonable return for the property sold.

§ 109-45.304-7 Advertising.

(b) Procedures shall be established by all sales activities to assure that notification is provided to the Department of Commerce of proposed sales of surplus property with an acquisition cost of \$250,000 or more as required by FPMR 101-45.304-7(b).

§ 109-45.304-50 Processing bids and award of contract.

The procedures established in FPR 1-2.4 shall be made applicable to execution, receipt, safeguarding, opening, abstracting, and evaluation of bids and awarding sales contracts, except that in evaluating bids and awarding contracts, disposal under conditions most advantageous to the Government based on high bids received shall be the determining factor. For mistakes in bids, see FPMR 101-45.8.

§ 109.45.304-51 Documentation.

Files pertaining to sales shall contain copies of all documents necessary to provide a complete record of the transaction and as a minimum shall include the following.

(a) A copy of request for proposals if written proposals are employed.

(b) A list of prospective bidders contacted.

(c) An abstract of proposals received, whether oral or written.

(d) Copies of written proposals or confirming proposals received, including standard forms 119 (see FPMR 101-45.313-9) which have been received from prospective bidders, together with other relevant information.

(e) A notation concerning basis for determination that proceeds constitute a reasonable return for property sold.

(f) Full and adequate justification for not advertising for competitive bids when the fair market value of property sold in this manner in any one case exceeds \$1,000.

(g) A notation concerning any award made to other than the high bidder.

(h) The approval of reviewing authority when required.

(i) A copy of notice of award.

(j) All related correspondence.

(k) In the case of auction or spot bid sales, the following additional information should be included:

(1) A list of items or lots sold indicating book cost and sales price for each item or lot sold.

(2) A copy of advertising literature distributed to prospective bidders.

(3) A summary listing of advertising by means of newspapers, radio, television, public posting, etc.

(4) The names of prospective bidders who attended sale if list was made.

(5) A copy of any pertinent contract for auctioneering services and related documents or appropriate reference to files containing such documents.

(6) A record of deposits and payments made or appropriate reference to files containing such records.

§ 109-45.307 Proceeds from sales.

Notwithstanding the provisions of FPMR 101-45.307, DOE installations shall comply with the provisions of DOE Order 2200, Chapter IV.

§ 109-45.309 Special classes of property.

§ 109-45.309-50 Unserviceable property (salvage and scrap).

(a) A continuous cleanup program shall be maintained at all DOE installations to locate, efficiently handle, and promptly dispose of unserviceable property (salvage and scrap). Property inventories and construction, wrecking, dismantling and other projects which might produce scrap, should be regularly reviewed, particularly for metals and other items which offer potential as marketable materials and for economic returns to the Government. (See FPMR Part 101-42 and DOE-PMR Part 109-42 for recovery of precious metals and reporting requirements.)

(b) Scrap metals shall be segregated to the maximum economical extent consistent with good industrial practice.

(c) Scrap metal which is contaminated with radioactive material shall be segregated and appropriately marked at the source as to type and degree of contamination.

§ 109-45.310 Antitrust laws.

Selling organizations shall submit to the Office of the General Counsel, with a copy to the Director of Procurement and Contracts Management, the report on proposed sales of surplus personal property with an acquisition cost of \$3,000,000 or more, or a patent, process, technique, or invention, regardless of cost. Information to be included is contained in FPMR 101-45.310.

§ 109-45.316 Report on identical bids.

Selling organizations shall forward the report on identical bids required by FPMR 101-45.316 to the Office of the General Counsel, with a copy to

the Director of Procurement and Contracts Management.

Subpart 109-45.5—Abandonment or Destruction of Surplus Property

§ 109-45.501 Findings justifying abandonment and destruction.

§ 109-45.501-1 General.

(a) The finding required by FPMR 101-45.501-1(a) that property has no commercial value or the estimated cost of its continued care and handling would exceed the estimated proceeds from its sale shall be in writing and shall be made by an official designated by the head of the field office concerned.

§ 109-45.501-2 Reviewing authority.

The head of the field office concerned or his designee will be the reviewing authority for approval to abandon or destroy property with an acquisition cost of more than \$1,000.

Subpart 109-45.50—Excess and Surplus Radioactively Contaminated Personal Property.

§ 109-45.5001 Scope of subpart.

This subpart provides policies and procedures for the utilization and disposal outside of DOE of excess and surplus personal property which has been radioactively contaminated.

§ 109-45.5002 Responsibilities.

§ 109-45.5002-1 Development of criteria for utilization and disposal outside DOE.

The Assistant Secretary's for Environment operational and environmental safety staff has responsibility for development of criteria for utilization and disposal of excess and surplus radioactively contaminated personal property outside of DOE.

§ 109-45.5002-2 Approval of requests for utilization and disposal outside DOE.

Requests for utilization and disposal outside DOE shall be forwarded to the Director of Procurement and Contracts Management for approval and coordination with the Assistant Secretary's for Environment operational and environmental safety staff for recommendations as to approval or disapproval.

§ 109-45.5003 Procedures.

§ 109-45.5003-1 Suspect personal property.

(a) Each excess item of personal property (including scrap), having a history of use in an area where exposure to radioactive materials may occur, shall be considered suspect and shall be monitored using appropriate instruments and techniques by qualified personnel of the DOE office or contractor generating the excess.

(b) Prior to utilization or disposal outside DOE, with due consideration to the economic factors involved, every effort shall be made to reduce the level of radioactive contamination of items of excess or surplus property to the lowest practicable level.

(c) If contamination is suspect and the property is of such size, construction, or location as to make the contamination inaccessible for the purpose of measurement, such property shall not be utilized or disposed of outside DOE through normal channels.

§ 109-45.5003-2 Handled as uncontaminated equipment.

If monitoring of suspect equipment indicates that the contamination does not exceed applicable standards, it may be utilized and disposed of in the same manner as uncontaminated equipment: *Provided*, The guidance in § 109-45.5003-1(b) has been considered. However, recipients shall be advised where levels of contamination require specific controls for shipment as provided in Department of Transportation regulations for shipment of radioactive materials (49 CFR parts 171-179, inclusive).

In addition, when such equipment is circularized within DOE, reported to GSA, or otherwise disposed of, the kind and degree of contamination must be plainly indicated on all pertinent documents.

§ 109-45.5003-3 Contaminated property.

When the holding activity determines it is appropriate to dispose of contaminated personal property, such contaminated personal property shall be disposed of by DOE in accordance with appropriate Federal regulations governing radiation exposure to the public and contamination in the environment. In special cases where Federal regulations do not exist or apply, appropriate national consensus standards shall be used.

Prior to utilization or disposal outside of DOE, approvals of the Director, Procurement and Contracts Management, and the Assistant Secretary's for Environment operational and environmental safety staff, are required. The requests for approval of utilization or disposal outside of DOE shall be forwarded to the Director of Procurement and Contracts Management for Headquarters coordination and approval.

Subpart 109-45.51—Disposal of Excess Personal Property in Foreign Areas

§ 109-45.5100 Scope of subpart.

This subpart prescribes policies and procedures governing the disposal of DOE-owned foreign excess and surplus personal property.

§ 109-45.5101 Authority.

The policies and procedures contained in this subpart are issued pursuant to the provisions of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 471). Title IV of that Act entitled "Foreign Excess Property" provides that, except where commitments exist under previous agreements, all excess property located in foreign areas shall be disposed of by the owning agency, and directs that the head of such an agency conform to the foreign policy of the United States in making such disposals.

§ 109-45.5102 General.

Disposal of Government-owned property in the custody of DOE or its contractors in foreign areas shall be made in an efficient and economical manner, and in conformance with the foreign policy of the United States.

§ 109-45.5103 Definitions.

As used in this subpart, the following definitions apply:

(a) "Foreign" means outside the United States, Puerto Rico, American Samoa, Guam, the Trust Territory of the Pacific Islands, and the Virgin Islands.

(b) "Foreign service post" means the local diplomatic or consular post in the area where the excess property is located.

§ 109-45.5104 Responsibilities.

§ 109-45.5104-1 Director of Procurement and Contracts Management.

The Director of Procurement and Contracts Management—

(a) Develops and interprets policies, principles, and general procedures for the disposal of excess property in foreign areas; and

(b) Prepares an annual report to GSA on the disposal of excess property in foreign areas. (See FPMR 101-43.4701, 101-44.4701, and 101-45.4701).

§ 109-45.5104-2 Heads of offices in foreign areas.

Heads of DOE foreign offices—

(a) Are authorized to handle foreign excess disposal matters in accordance with Title IV, "Foreign Excess Property" of the Federal Property and Administrative Services Act of 1949, as amended and this subpart;

(b) Shall refer to the Procurement and Contracts Management Directorate (PR-221), any requests for advice or approval of the State Department on proposed disposals of excess property in foreign areas for review, coordination and handling through appropriate channels; and

(c) Shall approve the exchange or lease of foreign excess property when in their opinion such action is clearly

in the best interest of the Government as provided in § 109-45.5105-2(b).

§ 109-45.5105 Disposal.

§ 109-45.5105-1 General.

(a) Foreign excess property which is not required for transfer within DOE or to other U.S. Government agencies shall be considered surplus and may be disposed of by transfer, sale, exchange, or lease, for cash, credit, or other property and upon such other terms and conditions as may be deemed proper. Such property may also be donated, abandoned, or destroyed under the conditions specified in § 109-45.5105-2(c) below. Most foreign governments have indicated to the State Department that they wish to be consulted before U.S. Government property is disposed of in their countries (except in the case of transfers to other U.S. Government agencies). Matters concerning customs duties and taxes, or similar charges, may require prior agreement with the foreign government involved. The State Department shall be contacted in regard to these problems.

Whenever advice or approval of the State Department is required by this subpart, it may be obtained either through the foreign service post in the foreign area involved or from the State Department in Washington, D.C. If the problem is to be presented to the State Department in Washington, D.C., it shall be referred through appropriate administrative channels to the Director of Procurement and Contracts Management, for review, coordination, and handling.

(b) Foreign excess property which is not transferred for use may be transferred to other U.S. Government agencies for disposal. This procedure may often prove advantageous, particularly when only small amounts of property are involved or when personnel of the other agencies are generally engaged in disposal activities.

§ 109-45.5105-2 Methods of disposal.

(a) Sales of foreign excess shall be conducted in accordance with the following guidelines:

(1) Generally, all sales of surplus foreign excess property shall be conducted under the competitive bid process unless it is advantageous and more practicable to the Government not to do so. When competitive bids are not solicited, reasonable inquiry of prospective purchasers shall be made in order that sales may be made on terms most advantageous to the U.S. Government.

(2) In no event shall any property be sold in foreign areas without a condition which states that its importation into the United States is forbidden unless the U.S. Secretary of Agricul-

ture (in the case of any agricultural commodity, food, or cotton or woolen goods), or the U.S. Secretary of Commerce (in the case of any other property), determines or has determined that the importation of such property would relieve domestic shortages or otherwise be beneficial to the economy of the United States.

(3) Sales documents shall provide that the purchaser must pay any import duties or taxes levied against property sold in the country involved and further provide that the amount of this duty or tax shall not be included as a part of the price paid the U.S. Government for the property. In the event the levy is placed upon the seller by law, the buyer will be required to pay all such duties or taxes and furnish the seller copies of his receipts prior to the release of the property to him. However, if the foreign government involved will not accept payment from the buyer, the seller will collect the duties or taxes and turn the amounts collected over to the foreign government. Accounting for the amounts collected shall be coordinated with the disbursing officer of the nearest United States foreign service post. The property shall not be released to the purchaser until the disposal officer is satisfied that there is no responsibility for payment by the United States (as contrasted to collection by the United States) of taxes, duties, excises, etc.

(4) Certain categories of property, including small arms and machine guns; artillery and projectiles; ammunition, bombs, torpedoes, rockets and guided missiles; fire control equipment and range finders; tanks and ordnance vehicles; chemical and biological agents, propellants and explosives; vessels of war and special naval equipment; aircraft and all components, parts and accessories for aircraft; military electronic equipment; aerial cameras, military photo-interpretation, stereoscopic plotting and photogrammetry equipment; and all material not enumerated which is classified from the standpoint of military security (United States Munitions List, 22 CFR 121.01), are subject to restrictions as to disposal. Advance approval must be obtained from the State Department for the sale of all such articles. Therefore, prior to the sale of any of the articles enumerated in the U.S. Munitions List, the foreign service post in the area shall be consulted.

(5) Prior to the sale of property which had a total acquisition cost of \$250,000 or more, plans for such sale shall be reported to the Procurement and Contracts Management Directorate (PR-221) in ample time to allow considerations of possible foreign policy aspects and advice thereon from the State Department. (See § 109-

45.5106(a.)) All proposed sales, regardless of the total acquisition cost of the property involved, which the head of the DOE foreign office believes might have a significant effect on the economic or political situation in a particular area, shall be discussed with the foreign service post.

(b) While there is authority for exchange or lease of foreign surplus property, such authority shall be exercised only when such action is clearly in the best interests of the U.S. Government. Disposals by exchange are subject to the same requirements as disposals by sale under § 109-45.5105-2(a).

(c) Foreign excess or surplus property (including waste, salvage, and scrap) may be donated, abandoned, or destroyed provided: (1) The property has no commercial value, or the estimated cost of its care and handling would exceed the estimated proceeds from its sale and (2) a written finding to that effect is made and approved by the head of the DOE foreign office. No property shall be abandoned or destroyed if donation is feasible. Donations under these conditions may be made to any agency of the U.S. Government, or to educational, public health or charitable nonprofit organization of foreign governments. Foreign excess property may also be abandoned or destroyed when such action is required by military necessity, safety, or considerations of health or security. A written statement explaining the basis for disposal by this means and approval by the head of the DOE foreign office is required. Property shall not be abandoned or destroyed in a manner which is detrimental or dangerous to public health and safety, or which will cause infringement on the rights of other persons.

§ 109-45.5106 Reports.

(a) Proposed sales of foreign excess property having an acquisition cost of \$250,000 or more reported to the Director of Procurement and Contracts Management should present all pertinent data, including the following:

(1) The description of property to be sold, including—

(i) Identification of property (description should be in terms understandable to persons not expert in technical nomenclature); property covered by the Munitions List and regulations pertaining thereto (as published in 22 CFR 121.01) should be clearly indicated;

(ii) Quantity;

(iii) Condition; and

(iv) Acquisition cost.

(2) The proposed method of sale (i.e., bid, negotiated sale, etc.).

(3) Any currency to be received and payment provisions (i.e., U.S. dollars,

foreign currency, or credit, including terms of proposed agreement).

(4) Any restrictions on use of property to be sold (such as retransfer of property, disposal as scrap, demilitarization, etc.).

(5) Any special terms.

(6) The categories of prospective purchasers (e.g., host country, other foreign countries, special qualifications, etc.).

(7) How taxes, excises, duties, etc. will be handled.

(b) Instructions for reporting foreign excess utilization and disposal transactions are contained in DOE Order 2200, Chapter III.

PART 109-46—UTILIZATION AND DISPOSAL OF PERSONAL PROPERTY PURSUANT TO EXCHANGE/SALE AUTHORITY

§ 109-46.000 Scope of part.

This part implements and supplements FPMR Part 101-46.

§ 109-46.000-50 Applicability.

This part is not applicable to DOE contractors.

Subpart 109-46.4—Disposal.

§ 109-46.407 Reports.

Feeder reports of exchange/sale transactions required by FPMR 101-46.407 shall be submitted through normal administrative channels to the Procurement and Contracts Management Directorate (PR-221) within 60 days after the close of the fiscal year. Negative reports are required.

PART 109-48—UTILIZATION, DONATION, OR DISPOSAL OF ABANDONED AND FORFEITED PERSONAL PROPERTY

§ 109-48.000 Scope of part.

This part implements and supplements FPMR Part 101-48, Utilization, Donation, or Disposal of Abandoned and Forfeited Personal Property.

§ 109-48.001-50 Applicability.

The provisions of FPMR 101-48 and this part are applicable to contractor operations where the abandoned or forfeited personal property is found on premises owned or leased by the Government.

Subpart 109-48.1—Utilization of Abandoned and Forfeited Personal Property

§ 109-48.101-6 Transfer to other Federal agencies.

(d) Transfer orders covering requests for transfers of forfeited or voluntarily abandoned distilled spirits, wine, and malt beverages for medicinal, scientific, or mechanical purposes shall be forwarded through normal administrative channels for signature by the

Procurement and Contracts Management Directorate (PR-221) and for subsequent forwarding to GSA for release.

§ 109-48.102-4 Proceeds.

After retention of any moneys received from disposal of abandoned or forfeited property for the 3-year period specified in FPMR 101-48.102-4 with no claim being filed, such moneys shall be deposited as provided in DOE order 2200, chapter IV.

PART 109-50—PROGRAMMATIC DISPOSAL OF DOE PROPERTY

§ 109-50.000 Scope of part.

This part provides guidance on the authorities, policies, and procedures for the disposal of DOE property for programmatic purposes.

§ 109-50.001 Applicability.

The provisions of this part 109-50 apply to direct DOE activities, but do not apply to contractors unless specifically provided in the appropriate subpart.

Subpart 109-50.1—General

§ 109-50.101 Authority.

Programmatic disposals of DOE property generally are made under the authority and subject to the provisions of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011), the Energy Reorganization Act of 1974 (42 U.S.C. 5801), the Department of Energy Organization Act (42 U.S.C. 7101), and other special laws which provide authority for DOE program activities.

Subpart 109-50.3—Used Energy-Related Laboratory Equipment Grant Program

§ 109-50.300 Scope of subpart.

This subpart provides guidance on the granting of used, energy-related laboratory equipment to universities and colleges and other nonprofit educational institutions of higher learning in the United States for use in energy-oriented educational programs.

§ 109-50.301 Applicability.

This subpart is applicable to direct operations and to contractors.

§ 109-50.302 General.

DOE, to encourage research in the field of energy, awards grants of used energy-related laboratory equipment to eligible institutions for use in energy-oriented educational programs. Under the used energy-related laboratory equipment grant program, grants of used energy-related equipment excess to the requirements of DOE offices and contractors may be made to

eligible institutions prior to reporting the equipment to GSA for utilization.

§ 109-50.303 Authority.

The used energy-related laboratory equipment grant program is conducted under the authority of article 31 of the Atomic Energy Act of 1954, as amended, section 103, paragraph 10, of the Energy Reorganization Act of 1974, and title III of the Department of Energy Organization Act.

§ 109-50.304 Definitions.

As used in this subpart the following definitions apply:

(a) "Book value" means acquisition cost less depreciation.

(b) "Eligible institution" means any nonprofit educational institution of higher learning, such as universities, colleges, junior colleges, hospitals, and technical institutes or museums located in the United States and interested in establishing or upgrading energy-oriented educational programs.

(c) "Energy-oriented education program" means one that deals partially or entirely in energy or energy-related topics.

(d) "DOE Assistance Regulations (DOE-AR)" is the Department of Energy regulation which establishes a uniform administrative system for application, award, and administration of assistance awards, including grants and cooperative agreements.

(e) "Grants officer" is an employee or officer of DOE who has been delegated the authority to take final action on grants by signing grant awards and modifications thereto.

§ 109-50.305 Responsibilities and authorities.

§ 109-50.305-1 Director of Procurement and Contracts Management.

The Director of Procurement and Contracts Management—

(a) Establishes policies and procedures for the award and administration of grants; and

(b) Delegates grants officer authority.

§ 109-50.305-2 Director, Office of Education, Business and Labor Affairs, Assistant Secretary for Intergovernmental and Institutional Relations.

The Director, Office of Education, Business and Labor Affairs, Assistant Secretary for Intergovernmental and Institutional Relations—

(a) Has program responsibility for the used energy-related laboratory equipment grants program;

(b) Issues general instructions and information on the program to institutions;

(c) Reviews and, where appropriate, approves requests from institutions for used equipment where the book value

of an item of equipment exceeds \$100,000 or where the cumulative book value of used equipment grants to any one institution exceeds \$100,000; and

(d) Issues annual summary reports of equipment granted under this program to field offices and Headquarters organizations. Advises when grants to individual institutions approach the \$100,000 book value cumulative limit.

§ 109-305-3 Heads of field offices.

Heads of field offices shall establish procedures for review and evaluation of equipment grant proposals in accordance with this subpart.

§ 109-50.305-4 Grants officers.

Grants officers—

(a) Award energy-related laboratory equipment grants under this program in accordance with the DOE Assistance Regulations (DOE-AR) and program instructions issued by the Director, Office of Education, Business and Labor Affairs, Assistant Secretary for Intergovernmental and Institutional Relations, and this subpart;

(b) Forward a copy of each approved and accepted grant to the Office of Education, Business and Labor Affairs; and

(c) Forward to Office of Education, Business and Labor Affairs, for approval prior to award of grant, requests from institutions for used equipment where the book value of the equipment exceeds \$100,000 or where the cumulative book value of grants to an institution exceeds \$100,000.

§ 109-50.305-5 Excess used energy-related laboratory equipment holding activities.

Each DOE and contractor organization holding excess used energy-related laboratory equipment shall forward copies of excess reports (SF 120) to screening locations cited in § 109-50.310.

§ 109-50.305-6 Screening locations.

Activities designated in § 109-50.310 shall retain current files of reports of excess used energy-related laboratory equipment for review by eligible institutions.

§ 109-50.306 Types of equipment which may be granted.

Examples of types of equipment which may be granted under the used energy-related laboratory equipment grant program are listed below. These examples are merely illustrative and not inclusive.

radiation detectors, monitors, scalars, and counters.
nuclear reactors and accelerators.
neutron howitzers and generators.
critical and subcritical assemblies.
bubble and cloud chambers.

dosimeters, survey meters, radiometers, and spectrometers.

radiation shields and reactor associated components.

mass spectrometers, infrared spectrometers, and ultraviolet spectrometers.

gas and liquid chromatographs.

ammeters, voltmeters, electrometers.

linear and pulse-height analyzers.

power supplies.

catalyst test units.

distillation columns.

temperature and pressure recorders.

ion control gauges.

gas tracers and analyzers.

solar collectors and heliometers.

§ 109-50.307 Types of equipment which may not be granted.

Types of equipment which will not be granted include—

(a) Any equipment determined to be required by DOE direct operations or DOE contractors;

(b) General supplies, such as Bunsen burners, hoods and work benches; furniture; office equipment, such as typewriters, adding machines, and duplicating machines; slide rules, and drafting and office supplies; refrigerators; tools; presses, lathes, furnaces, hydraulic and mechanical jacks, cranes and hoists; and computing equipment; or

(c) Any equipment which has been obtained as excess from another Federal agency.

§ 109-50.308 Procedure.

(a) Copies of excess reports (SF 120) of used energy-related laboratory equipment will be forwarded by each holding activity to the sites listed in § 109-50.310 for use by eligible institutions in reviewing and earmarking specific equipment. These reports will be separately prepared and identified with the caption "Used Energy-Related Laboratory Equipment."

(b) The following periods have been established during which time equipment will remain available to this program prior to reporting it to the General Services Administration for utilization by other Federal agencies:

(1) Sixty days from the date the report is issued to permit suitable time for eligible institutions to review and earmark the desired equipment.

(2) An additional 60 days after the equipment is earmarked to permit the eligible institutions to prepare and submit an equipment proposal request and to provide time for field organizations to review and evaluate the proposal and take appropriate action.

(c) Upon approval of the proposal, the issuance of the grant instrument and acceptance by the institution are deemed to constitute transfer of title.

(d) A standard form 120, accompanied by a copy of the completed grant, shall be used to drop accountability of the granted equipment from the financial records.

PROPOSED RULES

(e) The cost of care and handling of property incident to the grant shall be charged to the receiving institution. Such costs may consist of packing, crating, shipping and insurance, and are limited to actual costs. In addition, where appropriate, the cost of any repair and/or modification to any equipment shall be borne by the recipient institution.

§ 109-50.309 Reports.

(a) In addition to the copy of the awarded grant required to be forwarded in accordance with § 109-50.305-4(b), each awarded grant shall be reported in the Integrated Procurement Management Information System.

(b) Heads of field offices shall include grants made under this program in the annual report of property transferred to non-Federal activities, as required by FPMR 101-43.4701(c).

§ 109-50.310 Screening locations.

The following locations shall retain current files of SF-120's, reports of excess used energy-related laboratory equipment, for review by eligible institutions. DOE activities shall forward copies of SF 120's covering used energy-related laboratory equipment to these locations.

California

Property Management Office, Atomic International Division, Rockwell International Corp., 8900 DeSoto Ave., Canoga Park, Calif. 91305.

Property Manager, Lawrence Livermore Laboratory, University of California, Livermore, Calif. 94720.

Business Services, L-53, Lawrence Livermore Laboratory, University of California, Livermore, Calif. 94550.

Colorado

Rocky Flats Area Office, Department of Energy, P.O. Box 928, Golden, Colo. 80401.

Idaho

Property Management Branch, E.G. & G., 539 Second St., Idaho Falls, Idaho 83401.
Property Management and Administrative Services Branch, Idaho Operations Office, 550 Second St., Idaho Falls, Idaho 83401.

Illinois

Plant Operations, Plant Management, Argonne National Laboratory, 9700 South Cass Ave., Argonne, Ill. 60439.

Iowa

Materials Handling and Property Office, Room 152, Research Building, Ames Laboratory, Iowa State University, Ames, Iowa 50010.

Missouri

Kansas City Area Office, Department of Energy, P.O. Box 202, Kansas City, Mo. 66141.

Nevada

Property Management, Nevada Operations Office, Department of Energy, P.O. Box 14100, Las Vegas, Nev. 89114.

New Mexico

Office of University Relations, Sandia Laboratories, P.O. Box 5800, Albuquerque, N. Mex. 87115.

New York

Supply and Materials Office, Brookhaven National Laboratory, Upton, Long Island, N.Y. 11973.

Ohio

Property Management, Mound Laboratory, Monsanto Research Corp., P.O. Box 32, Miamisburg, Ohio. 45342.

South Carolina

University Relations Office, Savannah River Laboratory, E. I. DuPont de Nemours & Co., Aiken, S.C. 29801.

Tennessee

Materials and Services, Oak Ridge National Laboratory, P.O. Box X, Oak Ridge, Tenn. 37830.

Washington

Excess Utilization, Rockwell Hanford, Building 1167-A, P.O. Box 250, Richland, Wash. 99352.

Subpart 109-50.4—Programmatic Disposal of Contractor of DOE Property in a Mixed Facility

§ 109-50.400 Scope of subpart.

This subpart contains guidance to be followed when it is proposed to sell or otherwise transfer DOE personal or real property located in a mixed facility to the contractor who is the operator of that facility.

§ 109-50.401 Definitions.

As used in this subpart, the following definitions apply:

(a) "DOE property" is the DOE-owned personal or real property in a mixed facility.

(b) "Contractor" is the operator of the mixed facility.

(c) "Mixed facility" is a partly DOE-owned and partly contractor-owned facility. For purposes of this subpart, however, this definition does not apply to such a facility operated by an educational or other nonprofit institution under a basic research contract with DOE.

§ 109-50.402 Responsibilities and authorities.

§ 109-50.402-1 Director of Procurement and Contracts Management.

The Director of Procurement and Contracts Management is authorized to approve proposals for the programmatic disposal of DOE personal property in a mixed facility to the contractor operating that facility.

§ 109-50.402-2 Director of Administration.

The Director of Administration is authorized to approve proposals for the programmatic disposal of DOE real property in a mixed facility to the contractor operation that facility.

§ 109-50.402-3 Heads of headquarters program organizations.

Heads of headquarters program organizations shall review and, where appropriate, forward to the authorized officers in § 109-50.402-1 and 402-2 for approval, proposals for the programmatic disposal of DOE property in a mixed facility to the contractor operating that facility.

§ 109-50.402-4 Heads of field offices and contracting officers.

Heads of field offices and contracting officers shall submit proposals involving programmatic disposals of DOE property in mixed facilities through appropriate administrative channels to the cognizant headquarters program organization for review and forwarding for approval.

§ 109-50.403 Programmatic disposal of DOE property in mixed facilities.

§ 109-50.403-1 Submission of proposals.

Proposals involving programmatic disposals of DOE property in mixed facilities to contractors operating the facility shall be forwarded through the appropriate program organization to the authorized officers in § 109-50.402-1 and 402-2 for review and processing for approval. Each such request for review and approval shall include all information necessary for a proper evaluation of the proposal. The proposal shall include, as a minimum—

(a) The purpose of the mixed facility;

(b) The character, condition and present use of the DOE property involved, as well as its acquisition cost, accumulated depreciation, and net book value;

(c) The programmatic benefits which would accrue to DOE from the disposal to the contractor (including the considerations which become important if the disposal is not made);

(d) The appraised value of the DOE property (preferably by independent appraisers); and

(e) The proposed terms and conditions of disposal (covering for example, (1) price, (2) priority to be given work for DOE requiring the use of the transferred property, and including the basis for any proposed charge to DOE for amortizing the cost of plant and equipment items, (3) recapture of the property if DOE foresees a possible future urgent need, and (4) delivery of the property, whether "as is where is," etc.).

§ 109-50.403-2 Need to establish DOE program benefit.

When approval for a proposed programmatic disposal of DOE property in a mixed facility is being sought, it must be established that the disposal will benefit a DOE program. For example, approval might be contingent on a showing that—

(a) The entry of the contractor as a private concern into the energy program is important and significant from a programmatic standpoint; and

(b) The sale of property to the contractor will remove obstacles which otherwise discourage his entry into the field.

§ 109-50.404 Notification.

The Under Secretary will be advised prior to any disposal which is considered sensitive.

SUBCHAPTER J—INDUSTRIAL PLANT EQUIPMENT

PART 109-51 LOANS OF INDUSTRIAL PLANT EQUIPMENT FROM THE DEFENSE INDUSTRIAL PLANT EQUIPMENT CENTER (DIPEC)

Sec.

109-51.000 Scope of part.

109-51.000-50 Policy.

109-51.001 Memorandum of Agreement.

109-51.002 General provisions.

109-51.003 DIPEC Handbook.

AUTHORITY: Title V, Department of Energy Organization Act, (Pub. L. 95-91); Administrative Procedure Act, as amended, (5 U.S.C. 551 et seq.).

PART 109-51 LOANS OF INDUSTRIAL PLANT EQUIPMENT FROM THE DEFENSE INDUSTRIAL PLANT EQUIPMENT CENTER (DIPEC)

§ 109-51.000 Scope of part.

This part prescribes the policy and conditions for loans of industrial plant equipment (IPE) from the Department of Defense General Reserve under the management of the Defense Industrial Plant Equipment Center (DIPEC) and makes reference to the DOE DIPEC Handbook which prescribes procedures for arranging loans of IPE from DIPEC.

§ 109-51.000-50 Policy.

Since loan of DIPEC equipment is at no cost, except for packing, crating, handling, and transportation charges, DOE field offices and contractors are encouraged to use DIPEC as a source of industrial plant equipment in lieu of purchasing such equipment.

§ 109-51.001 Memorandum of agreement

An agreement between DOE and the Defense Logistics Agency establishes the policies, procedures and conditions by which DOE may obtain loans of IPE from DIPEC. (Exhibit A of the DIPEC Handbook).

§ 109-51.002 General provisions.

(a) DOE field offices and contractors may requisition IPE on a loan basis for periods up to five years. The IPE

loan period may be extended on mutual agreement between DIPEC and the DOE field office involved.

(b) DOE and DOE contract personnel may visit DIPEC headquarters or storage centers to acquire information or to inspect requisitioned or required IPE. Visit arrangements are to be coordinated through DIPEC.

(c) DOE has a 30-day period to accept or reject IPE placed on hold by DIPEC.

(d) DOE field offices or contractors will pay costs of transportation, dismantling, crating and handling of IPE from and to DOD.

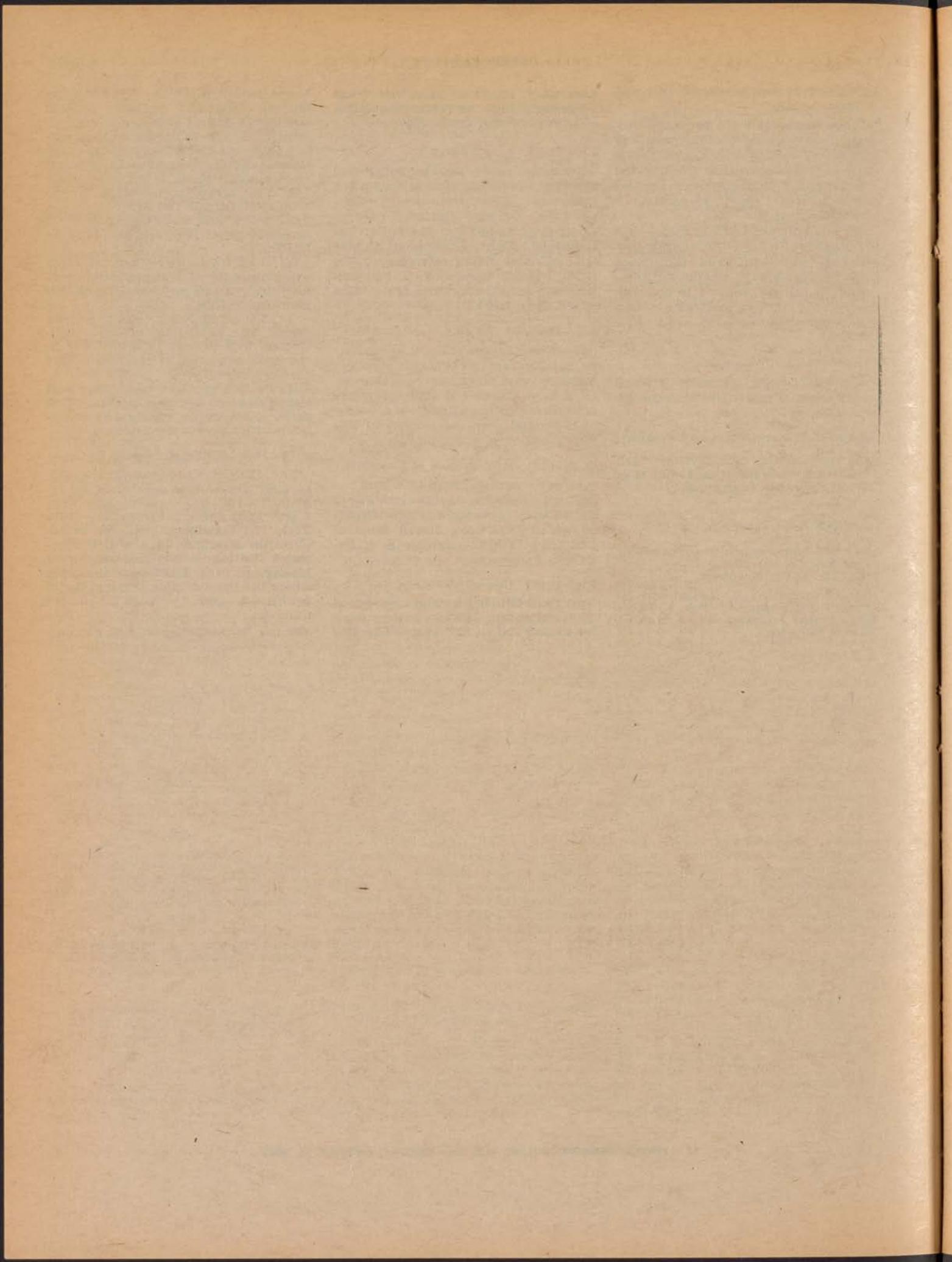
(e) On completion of the loan period, the DOE field office or contractor shall return the DIPEC-IPE in the same condition as received except for fair wear and tear.

(f) DOE is required under terms of the agreement to decontaminate IPE prior to return or replace the equipment with an equivalent item.

§ 109-51.003 DIPEC Handbook.

The DIPEC Handbook is available through field organizations or by request to the Procurement and Contracts Management Directorate (PR-221). The Handbook cites the procedures for arranging loan of IPE, illustrates the forms used and provides a bibliography of DIPEC publications which list the available IPE by type of equipment and by DIPEC control numbers.

[FR Doc. 78-29561 Filed 10-23-78; 8:45 am]



Registered
Federal Paper

TUESDAY, OCTOBER 24, 1978
PART III



DEPARTMENT OF
ENERGY

DOMESTIC CRUDE OIL
ALLOCATION PROGRAM
REGARDING
ENTITLEMENT
ADJUSTMENTS FOR
RESIDUAL FUEL OIL

Final Rules

[3128-01-M]

Title 10—Energy

CHAPTER II—FEDERAL ENERGY
ADMINISTRATION¹

[Docket Nos. ERA-R-78-17; ERA-R-76-1]

PART 211—MANDATORY
PETROLEUM ALLOCATION
REGULATIONSAmendments to Entitlements Program
Regarding Residual Fuel Oil

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Final rule.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby amends the domestic crude oil allocation ("entitlements") program with respect to entitlement adjustments for residual fuel oil. The final rule set forth below is adopted to implement the congressional mandate set forth in section 307 of the Act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1979, and for other purposes ("the 1979 Appropriations Act"), enacted on October 17, 1978. The amendments adopted today effectuate three changes in the residual fuel oil program, which amendments are effective for the period July 1, 1978 through June 30, 1979: first, the entitlement penalty ("reverse entitlements") which has existed for sales of domestic residual fuel oil in excess of 5,000 barrels per day in the east coast market is eliminated, unless such residual fuel oil is transported by domestic refiners to that market in foreign flag tankers; second, the entitlement value issuable for imports of residual fuel oil into the east coast market is increased from the previous 30 percent of the per barrel crude oil entitlement value to 50 percent of that value; and finally, the amendments expand the scope of the residual fuel oil entitlements program from the Bureau of Mines East Coast Petroleum Refining District to include as well the State of Michigan. In accordance with the 1979 Appropriations Act, today's rule is adopted in final notwithstanding the general rulemaking requirements of the Administrative Procedure Act and those specifically applicable to the DOE set forth in the Department of Energy Organization Act (Pub. L. 95-91).

DATES: Effective for refiners' crude oil runs to stills and for imports of re-

sidual fuel oil for the period July 1, 1978 through June 30, 1979. Further comments on the amendments set forth below are due on or before December 1, 1978, in docket No. ERA-R-78-17. Comments on the issues set forth in section IV below are due on or before February 1, 1979, in docket No. ERA-R-76-1.

ADDRESS: Send comments to: Department of Energy, Public Hearing Management, Room 2313, 2000 M Street NW., Washington, D.C. 20461. Docket No. ERA-R-78-17 (for comments due on or before Dec. 1, 1978), or docket No. ERA-R-76-1 (for comments due on or before Feb. 1, 1979).

FOR FURTHER INFORMATION CONTACT:

William L. Webb (Office of Public Information), Economic Regulatory Administration, Department of Energy, Room B-110, 2000 M Street NW., Washington, D.C. 20461, 202-634-2170.

F. Scott Bush (Regulations and Emergency Planning), Economic Regulatory Administration, Department of Energy, Room 8222, 2000 M Street NW., Washington, D.C. 20461, 202-632-8494.

Doug McIver (Entitlements Program Office), Economic Regulatory Administration, Department of Energy, Room 6128I, 2000 M Street NW., Washington, D.C. 20461, 202-254-8660.

Michael Paige or Nancy E. Williams (Office of General Counsel), Department of Energy, Room 5136, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461, 202-566-9565 or 566-2454.

SUPPLEMENTARY INFORMATION:

- I. Background.
- II. Amendment adopted.
- III. Effective date.
- IV. Sunset provision.
- V. Comment procedures.

I. BACKGROUND

On June 15, 1978 (43 FR 26551, June 20, 1978), the ERA issued a further notice of proposed rulemaking and public hearing to amend the residual fuel oil provisions of the entitlements program, which generally provided for elimination of the entitlement loss for sales of domestic residual fuel oil, and an increase in entitlement benefits for imported residual fuel oil sold in the east coast market. This proposal was cast as a further notice of proposed rulemaking because three alternative amendments on the residual fuel oil program had been proposed in December of 1976, but were never adopted as a final rule. The June 15 notice proposed amendments which differed significantly from any of the three December 1976 alternatives.

A public hearing on the June 1978 proposal was held on July 26-28, 1978, in Washington, D.C., where numerous commenters, representing a broad range of interests which would be affected by the proposed amendments, presented views.

Following the July hearing and while we were considering the numerous comments submitted on the June 1978 proposal, the Congress initiated legislation on the subject of entitlements for residual fuel oil. This legislation took the form of an amendment to the appropriations bill (sec. 307 of the bill as enacted) for the Department of the Interior and related agencies for the fiscal year ending September 30, 1979. The bill was signed into law by the President on October 17, 1978.

Section 307 provides as follows:

Sec. 307. (a) No funds appropriated under this Act may be used to implement the provisions with respect to the allocation of domestic crude oil specified in 10 CFR 211.67 on the date of enactment of this section, unless the President within 30 days after such enactment has amended the regulation under section 4(a) of the Emergency Petroleum Allocation Act of 1973 as provided in this section.

(b) (1) The amendment to the regulation required under subsection (a) shall provide that for the period between the effective date of such amendment and July 1, 1979, the provisions of the regulation specified in 10 CFR 211.67(a)(3) on the date of enactment of this section (relating to the issuance of entitlements to eligible firms importing residual fuel oil) shall be amended by replacing the words "thirty (30%) percent" wherever they appear by the words "fifty (50%) percent," except that for the purposes of this section the State of Michigan will be treated as if it were part of the east coast market as defined in 10 CFR 211.62.

(2) Such amendment shall provide that on and after July 1, 1979, the provisions of the regulation referred to in paragraph (1) shall revert to those provisions in effect on the date of enactment of this section.

(c) The amendment required under subsection (a) shall amend the provisions of the regulation specified in 10 CFR 211.67(d)(4) on the date of enactment of this section (relating to the reduction in entitlement value for sales into the east coast market) to delete the provisions exempting the first 5,000 barrels per day of a refiner's crude oil runs to stills from the operation of that subsection and to provide that 10 CFR 211.67(d)(4) is applicable only to domestic refiners that transport residual fuel oil for sale in the east coast market in foreign flag tankers.

(d) The effective date of the amendment required under subsection (a) shall be July 1, 1978, unless the Secretary finds it impracticable to implement such amendment on such date.

(e) In promulgating the amendment required under subsection (a) and any related implementing or conforming amendments the President shall not be subject to the provisions of section 553 of title 5 or of sections 7174 and 7191 of title 42 of the United States Code.

¹EDITORIAL NOTE.—Chapter II will be renamed at a future date to reflect that it contains regulations administered by the Department of Energy.

Except as specifically provided in this section, nothing in this section affects the authority of the President to amend the regulation under section 4(a) of the Emergency Petroleum Allocation Act of 1973.

We are hereby adopting amendments to the entitlements program which implement the requirements of this section 307. A summary of the amendments, together with a description of the implementing regulatory changes, is set forth below.

II. AMENDMENTS ADOPTED

Under the amendments adopted today, imports of residual fuel oil into the Bureau of Mines East Coast Refining District and the State of Michigan will be eligible to earn 50 percent of the per barrel crude oil entitlement value. Domestic refiners will receive 100-percent entitlement value for all barrels of domestically produced residual fuel oil sold into the east coast market (which, as defined, includes Michigan), unless such barrels are shipped in foreign flag tankers.

These changes are effectuated through the following specific amendments to the current entitlements program regulations:

First, we are amending the definitions of "east coast market," "eligible product," and "national domestic crude oil supply ratio" in 10 CFR 211.62. The amendment to the definition of "east coast market" implements the extension of the residual fuel oil entitlements program from the Bureau of Mines East Coast Refining District to include also the State of Michigan.

The defined term "eligible product" is amended to make clear that residual fuel oil which is processed in a refinery located in the Virgin Islands and then imported into the east coast market is not considered to be an "eligible product," so as to be eligible for imported product entitlement issuances. In contrast, residual fuel oil that is refined abroad, rather than in the Virgin Islands, and is imported into the east coast market by a Virgin Islands refiner will qualify as an "eligible product."

The definition of "national domestic crude oil supply ratio" is amended to change the reference from a 30-percent entitlement benefit to a 50-percent entitlement benefit for imports of eligible products.

The reporting requirements in § 211.66 are amended to conform to the language therein to that of the definition of "eligible firm" by adding the phrase "or use" after the phrase "for sale." This will make it clear that importers of record which are the ultimate consumers of the residual fuel oil, as well as those importing for resale, are subject to this reporting requirement.

Section 211.67(a)(3) is amended to increase the benefits granted to imported residual fuel oil from 30 percent of the per barrel crude oil entitlement value (the so-called "run credit") to 50 percent of that value. Subparagraph (d)(4) of that section is amended to eliminate the exemption of the first 5,000 barrels per day (bbl/d) of domestically produced residual fuel oil from the 50-percent entitlement penalty, and to provide for application of the 50-percent entitlement penalty only in that situation where residual fuel oil processed by a domestic refiner is transported for sale or use in the east coast market in a foreign flag tanker.

You are asked to comment by December 1, 1978, on the regulatory amendments we are hereby adopting, as to whether such amendments are consistent with and fully implement the provisions of the 1979 Appropriations Act. Procedures for the submission of such comments are set forth in section V below.

III. EFFECTIVE DATE

Subsection (d) of section 307 of the 1979 Appropriations Act provides that the provisions of the amendment required thereunder shall be effective July 1, 1978, "unless the President finds it impracticable to implement such amendment on such date." We believe a July 1, 1978, effective date is practicable, and are therefore adopting these amendments effective July 1, 1978.

This effective date will require that entitlement calculations that accord with the statutory requirements with respect to imported and domestic residual fuel oil sold into the east coast market for the months of both July and August 1978 be reflected in the entitlement notice for August, which is published in October. Since the July entitlement calculations were published in September, implementation of this effective date requires that certain firms' July entitlement positions be adjusted, so that their net position after publication of the October entitlement notice for July transactions in residual fuel oil sold in the east coast market will be consistent with the regulation amendments adopted today. We believe this adjustment will not present an undue burden to any affected parties and is necessary to accord with congressional intent to the greatest extent possible. The July 1 effective date also necessitates that those firms whose entitlements reports for July or August do not reflect the amendments adopted today file as soon as possible amended reports for those months so that July and August transactions may be properly reflected in the October entitlements notice.

IV. SUNSET PROVISION

Subsection (b)(2) of section 307 of the 1979 Appropriations Act provides that on and after July 1, 1979, the provisions of the regulation referred to in paragraph (1) (relating to entitlement benefits for imports) shall revert to those provisions in effect on the date of enactment of that section. Accordingly, we are making all of the amendments adopted below effective for crude oil runs and imports from July 1, 1978, through June 30, 1979, with automatic reversion to the regulation previously in effect on July 1, 1979. Although section 307 is silent as to whether subsection (c) (relating to reverse entitlements) also shall revert to its previous form, which suggests that we have flexibility on this issue, we believe that it is appropriate so to provide based on the mutually dependent nature of these entitlement adjustments, i.e., entitlement benefits for imports and "reverse" entitlements. Thus, on July 1, 1979, the previous "reverse" entitlement provisions, the 30-percent entitlement benefits for imports of residual fuel oil, and restriction of the covered market to the Bureau of Mines East Coast Refining District will automatically be reinstated.

Notwithstanding the action taken today, we will continue to keep open our pending rulemaking proceeding as to entitlement adjustments for residual fuel oil, in which a further notice of proposed rulemaking was issued on June 15, 1978 (docket No. ERA-R-76-1). In connection with that continuing rulemaking proceeding, we request further comments by February 1, 1979, as to whether the amendments proposed therein or some alternative amendments should be adopted effective on or after July 1, 1979, when the amendments adopted today otherwise automatically revert to the provisions previously in effect. The comments should specially address whether such amendments if adopted should be effective immediately upon termination of the amendments adopted today or at some later date, such as September 30, 1979, the last day of the fiscal year covered by the 1979 Appropriations Act. We are also interested in receiving comments on the performance of the market under the amendments adopted today, and recommendations as to whether any other type of regulatory provision with respect to residual fuel oil would be more appropriate than that provided for herein or in our June 15 proposal. You are asked to submit all such comments by February 1, 1979, in accord with the procedures set forth below in section V.

V. COMMENT PROCEDURES

Comments as requested above in sections II and IV should be submitted to

the address indicated in the "Address" section of this preamble and should be identified on the outside envelope with the designation "Residual Fuel Oil Entitlements." Fifteen copies should be submitted. All comments received by DOE will be available for public inspection in the DOE Reading Room, Room GA-152, James Forrestal Building, 1000 Independence Avenue SW., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday.

Any information considered by the person furnishing it to be confidential must be so identified and submitted in writing, one copy only. We reserve the right to determine the confidential status of the information and to treat it according to our determination.

We have prepared a regulatory analysis (as contemplated by the provisions of the President's Executive Order No. 12044) of the amendments hereby adopted. Copies of this analysis may be obtained from the ERA, Office of Public Information, 2000 M Street NW., Room B-110, Washington, D.C. 20461, 202-634-2170.

Subsection (e) of section 307 of the 1979 Appropriations Act provides that promulgation of the amendments adopted pursuant to the requirement of subsection (a) of that section, and any related implementing or conforming amendments, is not subject to the provisions of three statutory requirements which normally are applicable to DOE rulemaking proceedings. These three requirements are the rulemaking provisions of the Administrative Procedures Act (5 U.S.C. 553), and sections 404 and 501 of the DOE Organization Act (42 U.S.C. 7174 and 7191). Section 404 of the DOE Act sets forth a referral procedure to the Federal Energy Regulatory Commission (FERC) and section 501 sets forth additional procedures applicable to DOE rulemaking proceedings.

Since the present rulemaking has been exempted from compliance with these three requirements, the amendments hereby adopted have not been proposed for public notice and a hearing prior to their adoption, have not been referred to FERC for a determination as to whether they significantly affect certain FERC functions, and have not been proposed in accord with any of the requirements of section 501 of the DOE Act.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended, Pub. L. 93-511, Pub. L. 94-99, Pub. L. 94-133, Pub. L. 94-163, and Pub. L. 94-385; Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended, Pub. L. 94-332, Pub. L. 94-385, Pub. L. 95-70, and Pub. L. 95-91; Energy Policy and Conservation Act, Pub. L. 94-163, as amended, Pub. L. 94-385, and Pub. L. 95-70; Department of Energy Organization Act, Pub. L. 95-91; E.O. 11790, 39 FR 23185; E.O. 12009, 42 FR 46267.)

In consideration of the foregoing, part 211 of chapter II, title 10 of the Code of Federal Regulations is amended as set forth below, effective July 1, 1978.

Issued in Washington, D.C., October 17, 1978.

DAVID J. BARDIN,
Administrator, Economic
Regulatory Administration.

1. Section 211.62 is amended by amending the definitions of "east coast market," "eligible product," and "national domestic crude oil supply ratio" to read as follows:

§ 211.62 Definitions.

"East coast market" means the geographical area coextensive with the Bureau of Mines East Coast Petroleum Refining District: *Provided*, That, for the period July 1, 1978 through June 30, 1979, the east coast market shall also include the State of Michigan.

"Eligible product" means residual fuel oil imported into the east coast market, except that an import of residual fuel oil into United States customs territory which has been processed in the U.S. Virgin Islands shall not be considered an eligible product: *And provided*, That for the period July 1, 1978 through June 30, 1979, Canadian residual fuel oil imported into the State of Michigan will also qualify as an eligible product.

"National domestic crude oil supply ratio" means, for a particular month, the volume of deemed old oil (as defined in § 211.67(b)) included in the aggregate adjusted crude oil receipts of all refiners, decreased by a number of barrels of deemed old oil equal to the number of entitlements issuable to small refiners under § 211.67(e) and the number of entitlements issuable under § 211.67(a)(4) and § 211.67(a)(5), divided by the sum of the total volume of the crude oil runs to stills for all refiners for that month and thirty percent (30%) of the total volume of imports of eligible products by eligible firms for that month: *Provided*, That, for the period July 1, 1978 through June 30, 1979, the reference herein to thirty percent (30%) shall read fifty percent (50%). The calculation of the national domestic crude oil supply ratio for each month shall take into account entitlement purchase or sale requirements resulting from the cor-

rection of reporting errors pursuant to paragraph (j) of § 211.67.

2. Section 211.66 is revised in paragraph (j) to read as follows:

§ 211.66 Reporting requirements.

(j) *Monthly report by eligible firms.* On or prior to the fifth day of each month, commencing with the month of April 1976, each eligible firm that has imported an eligible product in the second month preceding that month shall file with the ERA a report certifying the following:

(1) The identity, volumes, and ports of origin and entry of any eligible products imported by the eligible firm in that preceding month.

(2) That the eligible product was imported for sale or use in the east coast market.

(3) Such other information as the ERA may request.

3. Section 211.67 is revised in subparagraph (3) of paragraph (a) and in subparagraph (4) of paragraph (d) to read as follows:

§ 211.67 Allocation of domestic crude oil.

(a) *Issuance of entitlements.* * * *

(3) For each month, commencing with the month of February 1976, each eligible firm that has imported an eligible product in that month shall be issued a number of entitlements equivalent to thirty percent (30%) of the number of entitlements that would be received by a refiner (without giving effect to the provisions of § 211.67(e)) in that month with respect to inclusion of a number of barrels of crude oil in that refiner's crude oil runs to stills equal to the number of barrels of that eligible product imported by that eligible firm: *Provided*, That for each month in the period July 1, 1978 through June 30, 1979, the number of entitlements issued to each eligible firm that has imported an eligible product in that month shall be equivalent to fifty percent (50%) of the number of entitlements that would be received by a refiner (without giving effect to the provisions of § 211.67(e)) in that month with respect to inclusion of a number of barrels of crude oil in that refiner's crude oil runs to stills equal to the number of barrels of that eligible product imported by that eligible firm. An eligible product is imported for purposes of this paragraph (a)(3) in the month, as specified on Customs Forms 7501 or

7505, as appropriate, in which importation takes place.

* * * * *

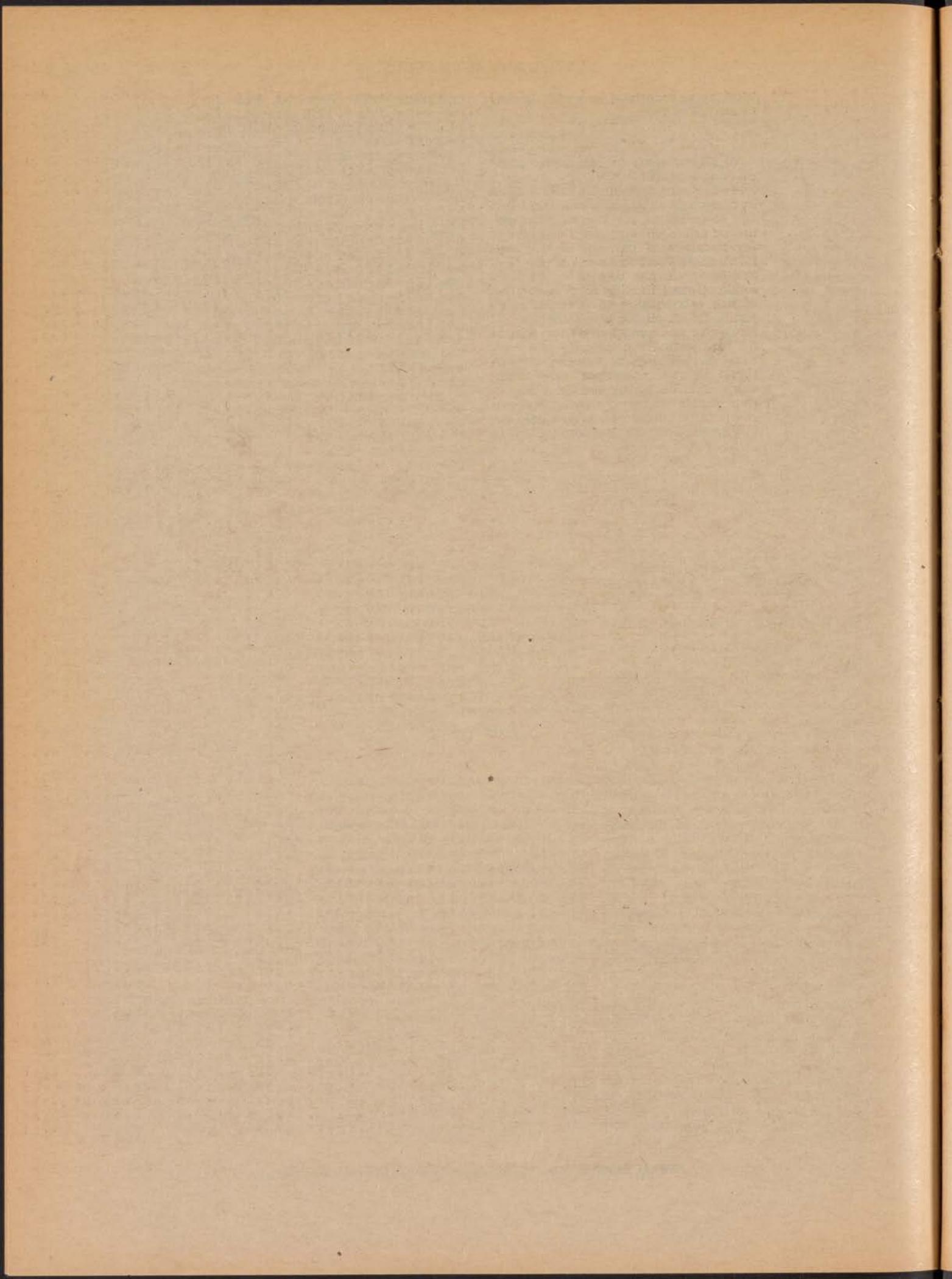
(d) *Adjustments to volume of crude oil runs to stills.* * * *

(4) For purposes of the calculations in paragraph (a)(1) of this section and the calculations for the national domestic crude oil supply ratio (but not for purposes of par. (e) of this section), the volume in excess of the first 5,000 barrels per day of a refiner's crude oil runs to stills for a particular month attributable to production of residual fuel oil for sale (whether directly for consumption or for resale) by that refiner in or into the east coast market shall be reduced by fifty (50%) percent. Any export sales of residual fuel oil giving rise to a deduction under paragraph (d)(2) above shall not be considered as residual fuel oil production for purposes of this

paragraph (d)(4): *Provided*, That for the period July 1, 1978 through June 30, 1979, this paragraph (d)(4) shall read as follows:

(4) For purposes of the calculations in paragraph (a)(1) of this section and the calculations for the national domestic crude oil supply ratio (but not for purposes of par. (e) of this section), the volume of crude oil runs to stills of any domestic refinery attributable to production of residual fuel oil transported in foreign flag tankers for sale (whether directly for consumption or for resale) or use in the east coast market shall be reduced by fifty (50%) percent. Any export sales of residual fuel oil giving rise to a deduction under paragraph (d)(2) of this section shall not be considered as residual fuel oil production for purposes of this paragraph (d)(4).

[FR Doc. 78-29890 Filed 10-19-78; 2:31 pm]



TUESDAY, OCTOBER 24, 1978
PART IV



**ENVIRONMENTAL
PROTECTION
AGENCY**

**TOXIC SUBSTANCES
CONTROL ACT**

**Policy for Revised Inventory
Reporting; Draft Report Form**

**Registered
Draft Report**

[6560-01-M]

**ENVIRONMENTAL PROTECTION
AGENCY**

Office of Toxic Substances

[FRL-993-5; OTS-081002C]

**POLICY FOR REPORTING FOR THE REVISED
INVENTORY DRAFT REPORT FORM**

AGENCY: Environmental Protection Agency.

ACTION: Policy for Revised Inventory Reporting; draft report form.

SUMMARY: The inventory reporting regulations, promulgated under the authority of the Toxic Substances Control Act (TSCA), govern the reporting of chemical substances to create an Inventory of chemical substances manufactured, imported, or processed in the United States for a commercial purpose. Under these regulations the Inventory will be compiled in two phases. In early 1979, the Agency will publish an Initial Inventory of Chemical Substances manufactured or imported for a commercial purpose since January 1, 1975. Following publication of the Initial Inventory, there will be a special, 210-day period during which processors and certain importers of chemical substances will have an opportunity to add substances to the Inventory in order to insure compliance with TSCA. This second phase will result in publication of a Revised Inventory sometime in 1980.

This notice addresses Agency policy concerning reporting for the Revised Inventory and proposes a draft report form for public comment. In addition, persons may use the coupon provided in this notice to reserve a copy of the Initial Inventory in printed form or microfiche. EPA will publish another notice in the FEDERAL REGISTER to announce the beginning of the 210-day reporting period.

DATES AND ADDRESS: Comments on the proposed report form must be received on or before December 8, 1978, and should be addressed to: Ms. Joyce Barbour, U.S. Environmental Protection Agency, Office of Toxic Substances (TS-793), 401 M Street SW., Washington, D.C., 20460. Comments should bear the identifying notation OTS-081002C. All written comments filed pursuant to this notice will be available for public inspection at the above address in room 711A, East Tower, from 8 a.m. to 4 p.m. Monday through Friday.

FOR FURTHER INFORMATION CONTACT:

Director, Industry Assistance Office,
Office of Toxic Substances (TS-788),
Environmental Protection Agency,
401 M Street SW., Washington, D.C.,

20460. Or call the toll-free number, 800-424-9065. In Washington, D.C., please call 554-1404. Applications for reserving copies of the Initial Inventory should be sent to the above address. Persons who wish to receive copies of the Inventory reporting regulations and supplements to the regulations should call the toll-free number listed above.

SUPPLEMENTARY INFORMATION: The Inventory reporting regulations (40 CFR Part 710) were promulgated under the authority of section 8(a) of the Toxic Substances Control Act (90 Stat. 2003; 15 U.S.C. 2601 et seq.) hereinafter referred to as TSCA. These regulations were published in the FEDERAL REGISTER on December 23, 1977 (42 FR 64572), and were supplemented on March 6, 1978 (48 FR 9254) and April 17, 1978 (43 FR 16178). The regulations implemented section 8(b) of TSCA, which requires the Administrator of the Environmental Protection Agency (EPA) to compile, keep current, and publish a list of chemical substances manufactured, imported, or processed in the United States for a commercial purpose.

Section 710.6 of the Inventory reporting regulations establishes a two-phase reporting schedule designed to prevent duplicative reporting. During the initial reporting period, which ended on May 1, 1978, certain manufacturers and importers reported to EPA concerning chemical substances they manufactured or imported for a commercial purpose since January 1, 1975. Based on these reports, EPA will publish an Initial Inventory early in 1979. Persons who begin manufacture or importation of a chemical substance after May 1, 1978, are permitted to report that substance for the Inventory up to 30 days after publication of the Initial Inventory. At that time the premanufacture notification requirements of section 5(a)(1)(A) of TSCA will take effect for all persons who intended to manufacture or import (in bulk form), for a commercial purpose, a chemical substance not included on the Initial Inventory. Rules governing premanufacture notification are currently being developed by EPA and will be proposed in the FEDERAL REGISTER for public comment.

A second reporting period lasting 210 days will begin when the Initial Inventory is published. During this period, a person may report a chemical substance that was not included on the Initial Inventory if the person has processed or used the chemical substance (including use in the manufacture of a mixture or article containing the chemical substance) for a commercial purpose since January 1, 1975, or the person has imported the substance as part of a mixture or article for a commercial purpose since January 1,

1975. A manufacturer or importer (in bulk) of a chemical substance for a commercial purpose may *not* report for the Revised Inventory; he is subject to premanufacture notification requirements 30 days after the Initial Inventory is published. Reporting by processors and users for the Revised Inventory is solely intended to supplement the Initial Inventory. EPA will publish one or more supplements to the Initial Inventory during the revised Inventory reporting period. These supplements will include substances that were omitted from the Initial Inventory due to late reporting or errors, substances reported for the Revised Inventory, and substances that have completed premanufacture review. The Agency expects to publish the Revised Inventory sometime in 1980.

After publication of the Revised Inventory, it will become unlawful for any person to process or use for a commercial purpose a chemical substance that was manufactured or processed in violation of section 5 of TSCA. Thirty days after publication of the Revised Inventory, the premanufacture notification requirements of section 5 of TSCA will be applied to importers of new chemical substances as part of mixtures.

IMPORTED ARTICLES

In the near future EPA will issue proposed rules to govern the premanufacture notification review program under TSCA. These proposed rules would maintain the policy established under the Inventory reporting regulations with respect to the premanufacture notification requirements for importers of chemical substances. Under this policy, set forth in the FEDERAL REGISTER on October 3, 1977 (14 FR 53804), December 23, 1977 (42 FR 64572), and March 6, 1978 (43 FR 9254), premanufacture notification initially will apply *only* to importation of new chemical substances in bulk form (30 days after publication of the Initial Inventory) and to importation of new chemical substances as part of mixtures (30 days after publication of the Revised Inventory). Importers of chemical substances as part of articles will *not* be subject to premanufacture notification requirements at this time. However, at a later date the Agency may propose to apply premanufacture notification requirements to certain categories of chemical substances imported as part of articles after providing importers an opportunity to report existing substances falling within such categories for inclusion on the Inventory. The proposal would be followed by a public comment period prior to any change in the Agency's current policy. EPA continues to welcome comments on this issue.

PROCESSORS AND USERS

For purposes of the Inventory reporting regulations, "processors" and "users" of chemical substances "for commercial purposes" are persons who (1) prepare for distribution in commerce or (2) use as an intermediate a chemical substance that has *already been manufactured*. (See §710.2 (t), (u), and (v)). Examples are persons who use chemical substances to manufacture mixtures or articles and persons who grind, pulverize, blend, or repackage chemical substances for a commercial purpose. A person who uses a chemical substance as an intermediate in the intentional manufacture of another chemical substance is considered a processor of the intermediate.

EPA wishes to emphasize that processors and users of chemical substances are *not required* to report substances for the Inventory. The Revised Inventory reporting period is an opportunity for them to add to the Inventory substances that may not have been reported by a manufacturer of importer, in order to insure a continuing supply of a particular substance and avoid penalties under TSCA. Once a chemical substance has been reported by a processor or user and included on the Inventory, it may be manufactured or imported for a commercial purpose without going through premanufacture notification.

REPORTING TRADEMARKS

Chemical substances reported for the Revised Inventory must qualify as "reportable chemical substances" (see Chapter II, "Reporting for the Chemical Substance Inventory," (December 1977)), and must not be included on the Initial Inventory.

All reported substances must be identified as specifically as possible. EPA will *not* process report forms on which a substance is identified only by a trademark or brand name. However, EPA recognizes that processors may know certain products only by a trademark or brand name (e.g., "Brand X"). Such products may be comprised of one or more reportable chemical substances. Processors should either determine that the component substances are included on the Initial Inventory and therefore should not be reported, or obtain the specific identities of the substances from the supplier and report them for inclusion on the Revised Inventory. The procedure outlined below should assist processors in obtaining this information.

To determine whether the substances comprising a trademarked product are included on the Initial Inventory, a processor should first consult the Product Trademark List. This list, which is currently being compiled from Form D reports submitted during

the initial reporting period, will be available in advance of the Initial Inventory. Manufacturers who reported their product trademarks for inclusion on this list were required to certify that all reportable chemical substances comprising the trademarked product had been reported for the Initial Inventory. Processors who reported product trademarks were required to certify that any component chemical substance not reported for the Initial Inventory would be reported by them for the Revised Inventory. (Refer to 43 FR 9254, March 6, 1978.) Therefore, if a trademark appears on the Product Trademark List the component chemical substances should not be reported for the Revised Inventory by anyone other than the person who reported the trademark.

Reporting of trademarks for inclusion on the Product Trademark List was strictly voluntary. Therefore, not all eligible trademarks will be included on the list. If a trademarked product does not appear on the Product Trademark List, a processor should ask his supplier to (1) provide him with a letter certifying that all reportable chemical substances comprising the trademarked product have been reported for the Inventory, or (2) reveal to the processor the identity of the component substances so that the processor may determine whether or not the substances are reportable, and, if they are, report them for the Revised Inventory. If the supplier refuses to do either of the above, the processor should submit a report form to EPA, providing the name and address of the supplier and the name of the trademarked product, and indicating that his supplier has refused to provide him the information necessary to determine whether he should report for the Revised Inventory. EPA will then attempt to obtain the necessary information directly from the supplier.

An importer of a chemical substance as part of a mixture or article may not know the true identity of the chemical substance because the foreign supplier may choose to keep it confidential. In this situation, the importer may be assisted in reporting by the foreign supplier, who would report the substance identity directly to EPA. EPA has established a procedure for reporting in this manner in the instruction booklet "Reporting for the Chemical Substance Inventory" (December 1977). A revised edition of this booklet will be available in advance of publication of the Initial Inventory.

DRAFT REPORT FORM

EPA is proposing a single report form to be used in reporting for the Revised Inventory. This form, on which one chemical substance may be reported, would replace Forms A, B,

and C, which were used during the Initial Inventory reporting period. This single form approach represents a slight deviation from §710.5(b) of the Inventory reporting regulations, which specifies use of three separate forms depending on whether (1) the substance appeared on the TSCA Candidate List of Chemical Substances (Form A), (2) the substance did not appear on the Candidate List but had a Chemical Abstracts Service (CAS) Registry Number (Form B), or (3) the substance had no CAS Registry Number or the substance identity was claimed as confidential (Form C). The draft form is essentially a revised Form C, and would be used to report a chemical substance that falls within any of the above three categories.

EPA expects to receive reports on relatively few chemical substances during the Revised Inventory reporting period. Most of the substances eligible for inclusion on the Inventory should have been reported by their manufacturers and importers during the initial reporting period. The large number of substances reported during this period justified the printing and distribution of three separate forms, two of which were designed to allow reporting of several substances on a single form. There should be few cases in which a processor reports a chemical substance not reported by a manufacturer or importer during the initial reporting period. In addition, persons who import chemical substances as part of mixtures or articles had the option of reporting during the initial reporting period, and are expected to add relatively few substances to the Inventory during the Revised Inventory reporting period. Therefore, EPA has determined that three separate forms would not be necessary and that a single form should be adequate for Revised Inventory reporting. The Agency specifically welcomes comment on the report form.

I. CERTIFICATION STATEMENT

The Revised Inventory report form must be signed by a responsible company official, attesting to the trust of the following certification statement: "I hereby certify that, to the best of my knowledge and belief: (1) The chemical substance identified below (a) is not included on the Initial Inventory, (b) is eligible for inclusion on the Revised Inventory under 40 CFR 710.3(b) as it has been processed or used for a commercial purpose since January 1, 1975, or has been imported as part of a mixture or article for a commercial purpose since January 1, 1975, and (c) was not manufactured or imported (in bulk form) for a commercial purpose for the first time after the effective date of premanufacture notification requirements for manu-

facturers of chemical substances and importers of chemical substances in bulk form; (2) all information entered on this form is complete and accurate; and (3) the confidentiality statements on the back of this form are true as to that information for which I have asserted a confidentiality claim. I agree to permit access to, and the copying of, records by a duly authorized representative of the EPA Administrator, in accordance with the Toxic Substances Control Act, to document any information reported here."

A foreign supplier who assists an importer in reporting a substance for the Inventory must also sign the form attesting to the completeness and accuracy of all information he provides on behalf of the importer. A trade association or other agent reporting on behalf of a person must follow the procedures of § 710.5(f) of the inventory reporting regulations.

II. REQUIRED INFORMATION

Persons who choose to report for the Revised Inventory must provide the following information on the form: (1) The name and address of the reporting company (or corporation, trade association or other agent); (2) the specific identity of the chemical substance (including its CAS Registry Number, if known); and (3) the activity the reporting company is engaged in with respect to the chemical substance (i.e., "process" or "import"). Persons should also provide the name, address, and phone number of a principal technical contact, whom EPA may contact to clarify any information submitted on the form. Detailed instructions for completing the form will be distributed with the forms, and will follow the approach of the instruction booklet for the Initial Inventory, "Reporting for the Chemical Substance Inventory" (December 1977).

III. CONFIDENTIALITY

Section 710.7 of the inventory reporting regulations outlines the confidentiality provisions. A processor or importer may claim as confidential whether he processes or imports the chemical substance by checking the box labeled "Activity" under the heading "Confidentiality Claims." In addition, he may claim as confidential the link between his company and the chemical substance by checking the box labeled "Company" under the same heading. By signing the certification statement, he attests to the trust of the following confidentiality state-

ments appearing on the back of the form.

1. My company has taken measures to protect the confidentiality of the information, and it intends to continue to take such measures.

2. The information is not, and has not been, reasonably obtainable without our consent by other persons (other than governmental bodies) by use of legitimate means (other than discovery based on a showing of special need in a judicial or quasi-judicial proceeding).

3. The information is not publicly available elsewhere.

4. Disclosure of the information would cause substantial harm to our competitive position.

In accordance with § 710.7(e) of the inventory reporting regulations, a person may claim the specific identity of a chemical substance as confidential if such person believes that inclusion of the specific chemical identity on the Inventory would reveal the trade secret fact that the particular substance is manufactured, imported, or processed by anyone for a commercial purpose. Such claims must be substantiated in writing, addressing the points specified in the instruction manual, "Reporting for the Chemical Substance Inventory." The person must also propose a generic (less specific) chemical name for the substance and agree to certain other provisions of § 710.7(e) of the regulations. Such persons should adhere to the procedures detailed in the EPA document "Guidelines for Creating Proposed Generic Names for Confidential Chemical Substance Identities for the TSCA Inventory," which may be obtained from the Industry Assistance Office by calling the toll-free number listed at the beginning of this notice. If EPA determines that the specific substance identity is entitled to confidential treatment, the specific identity will not be included on the published Inventory. Rather, EPA will publish a generic chemical name for the substance in the Confidential Chemical Substance Appendix to the Inventory.

RESERVING A COPY OF THE INVENTORY

Persons who reported chemical substances for the Initial Inventory and persons who have the opportunity to make additions to the Inventory during the second reporting period should carefully examine the Initial Inventory for completeness and accuracy. Processors and importers who may report for the Revised Inventory should consult the Product Trademark

List in addition to the Initial Inventory. The Product Trademark List will be available in advance of the Initial Inventory, and may be obtained from EPA's Industry Assistance Office by completing the coupon provided in this notice. Persons who are interested in obtaining a copy of the Product Trademark list *only* are encouraged to check the appropriate box on the coupon. Persons who reserve a copy of the complete Initial Inventory will automatically receive a copy of the Product Trademark List.

Because of the anticipated size of the Initial Inventory and the large number of copies EPA expects to make available, printing and distribution costs will be very high. EPA will take the following measures to keep the cost as low as possible:

(1) EPA will provide *one* free copy of the Initial Inventory, in printed form or microfiche, to each company, corporation (or subsidiary, division or major department of a large corporation), or interested organization while supplies last. EPA encourages persons to request microfiche copies wherever equipment permits, since these copies are less expensive to print and distribute.

(2) EPA will place reference copies of the Initial Inventory, in printed form or microfiche (as equipment permits) in the libraries of all large cities, GPO regional depository libraries, State environmental offices, and EPA regional offices. Persons requiring minimal access to the Inventory are encouraged to make use of reference copies, rather than ordering a complete copy of the Inventory from EPA.

(3) Additional copies of the Initial Inventory will be available in printed form and microfiche through the Government Printing Office (GPO) or other source at a cost to be specified later.

(4) A computer readable version of the Initial Inventory will be available at a cost to be specified later.

In order to determine the number of copies of the Initial Inventory EPA needs to print in hard copy and on microfiche, affected persons are encouraged to complete the coupon below and mail it to the Industry Assistance Office by November 30, 1978. A company that reserves a copy of the Initial Inventory in this manner can expect to receive its free copy automatically after the Inventory is published.

Dated: October 18, 1978.

STEVEN D. JELLINEK,
Assistance Administrator
for Toxic Substances.

[6560-01-C]

Initial Inventory (TS-799)
 Industry Assistance Office
 E.P.A.
 401 M Street, S.W.
 Washington, D.C. 20460

 (Date)

Please reserve one (1) copy of (check one):

complete Initial TSCA Chemical Substance Inventory, or

Product Trademark List only

in (check one): Printed Form Microfiche

for:

 (Name)

 (Company)

 (Address or P.O. Box)

 (City)

 (State)

 (ZIP)

My company is a: manufacturer processor importer
 of chemical substances or other (please check one or more as
 appropriate).

 (Signature)

EPA Form 7710-23 (10-78)

IMPORTANT: Before completing this form, carefully read the EPA publication "Reporting for the Chemical Substance Inventory" that booklet contains instructions for properly completing this form.

USE PREVIOUS EDITIONS

U.S. ENVIRONMENTAL PROTECTION AGENCY CHEMICAL SUBSTANCE INVENTORY REPORT (Section 8 (a) and (b) Toxic Substances Control Act 15 USC 2607)		REVISED INVENTORY (40 CFR 710.3(b))															
<p>I. CERTIFICATION STATEMENT I hereby certify that, to the best of my knowledge and belief, 1) the chemical substance identified below (a) was not included on the Initial Inventory, (b) is eligible for inclusion on the Revised Inventory under 40 CFR 710.3(b) as it has been processed or used for a commercial purpose since January 1, 1975 or has been imported as part of a mixture or article for a commercial purpose since January 1, 1975, and (c) was not manufactured or imported in bulk form for a commercial purpose for the first time after the effective date of manufacture notification requirements for manufacturers of chemical substances and importers of chemical substances in bulk form. 2) All information entered on this form is complete and accurate, and 3) the confidentiality statements on the back of this form are true as to that information for which I have asserted a confidentiality claim. I agree to permit access to, and the copying of records by a duly authorized representative of the EPA Administrator, in accordance with the Toxic Substances Control Act, to document any information reported here.</p> <p>_____ SIGNATURE</p> <p>_____ DATE</p> <p>_____ NAME / TITLE / TYPE OR PRINT</p>																	
EPA USE ONLY MID _____		Foreign Supplier Signature _____ Day _____															
Form No.	II. COMPANY NAME/ADDRESS NAME _____ ADDRESS _____ CITY _____ STATE _____ ZIP _____		III. PRINCIPAL TECHNICAL CONTACT(S) NAME _____ ADDRESS _____ CITY _____ STATE _____ ZIP _____ PHONE _____														
	IV. CHEMICAL SUBSTANCE IDENTITY/ACTIVITY/CONFIDENTIALITY CLAIMS																
	CAS REGISTRY NUMBER IF KNOWN _____	SPECIFIC CHEMICAL NAME SEPARATE SYNONYMS WITH A SEMICOLON _____	<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <th colspan="2">ACTIVITY</th> <th colspan="2">CONFIDENTIALITY CLAIMS</th> <th rowspan="2" style="writing-mode: vertical-rl; transform: rotate(180deg);">EPA USE ONLY</th> </tr> <tr> <th>PROCESS</th> <th>IMPORT</th> <th>(a) ACTIVITY</th> <th>(b) COMPANY</th> </tr> <tr> <td style="height: 40px;"></td> <td></td> <td></td> <td></td> <td></td> </tr> </table>	ACTIVITY		CONFIDENTIALITY CLAIMS		EPA USE ONLY	PROCESS	IMPORT	(a) ACTIVITY	(b) COMPANY					
	ACTIVITY		CONFIDENTIALITY CLAIMS		EPA USE ONLY												
PROCESS	IMPORT	(a) ACTIVITY	(b) COMPANY														
IN THE SPACE PROVIDED BELOW, PROVIDE STRUCTURAL INFORMATION, MOLECULAR FORMULA, AND OTHER SUPPLEMENTAL INFORMATION TO AID IN THE SPECIFIC IDENTIFICATION OF THE CHEMICAL SUBSTANCE. _____ MOLECULAR FORMULA		<input type="checkbox"/> SEE ATTACHED SHEETS NO. OF SHEETS _____ WRITE FORM NO. ON ALL ATTACHMENTS															
<h1 style="transform: rotate(-30deg); opacity: 0.5;">DRAFT</h1> <h1 style="transform: rotate(-30deg); opacity: 0.5;">Do Not Use</h1>		<input type="checkbox"/> (c) CHEMICAL SUBSTANCE IDENTITY IS CONFIDENTIAL (1) SUBSTANTIATION: _____ (2) Proposed Generic Name: _____ <input type="checkbox"/> (d) I agree to the terms of CONFIDENTIAL CHEMICAL SUBSTANCE IDENTITY STATEMENT on the back of this form.															

One Time (Expires Jan. 1, 1979)
 EPA Form 7710-A

[FR Doc. 78-29874 Filed 10-23-78; 8:45 am]

**Register
Federal Register**

**TUESDAY, OCTOBER 24, 1978
PART V**



**DEPARTMENT OF
LABOR**

**Employment and
Training Administration**



**SERVICES OF THE
EMPLOYMENT SERVICE
SYSTEM, BASIC SERVICES
OF THE EMPLOYMENT
SERVICE AND SERVICES
IN SUPPORT OF BASIC
SERVICES**

Proposed Rulemaking

PROPOSED RULES

[4510-30-M]

DEPARTMENT OF LABOR

Employment and Training Administration

[20 CFR Parts 602, 604, 651, 653, 658]

SERVICES OF THE EMPLOYMENT SERVICE SYSTEM, BASIC SERVICES OF THE EMPLOYMENT SERVICE AND SERVICES IN SUPPORT OF BASIC SERVICES

Proposed Rulemaking

AGENCY: Employment and Training Administration, Labor.

ACTION: Proposed rule.

SUMMARY: The Department of Labor is proposing regulations which all State employment service agencies must follow in offering services to the public. These regulations are intended to clarify and update the requirements governing basic services of the employment service system and services offered in support of basic services.

DATES: Comments must be received on or before: December 26, 1978.

ADDRESS: Charles I. Carter, Division Chief, Policies and Program Design, 601 D Street NW, Room 8018, Washington, D.C. 20213.

FOR FURTHER INFORMATION CONTACT:

Alan Lafferman, Regulations Coordinator, Policies and Program Design, 601 D Street NW., Room 8018, Washington, D.C. 20213, 202-376-6701.

SUPPLEMENTARY INFORMATION: The Wagner-Peyser Act of 1933, as amended, established the Employment Service system. The Act authorized a national system of public employment offices to assist men, women and youth in obtaining employment.

The Employment Service performs essentially a labor exchange function. That is, the system provides no-fee employment services to applicants seeking employment and to employers seeking applicants. Among the services provided applicants are job information, referral to job openings listed with the employment service, employment counseling, employment testing, job development and referral to training. Among the services provided employers are referral of qualified applicants to job openings listed with the employment service system; labor market information; and assistance in meeting affirmative action obligations under legislation, court order, consent decree, government contracts, or other fair employment practice authority rulings.

The U.S. Employment Service gave serious consideration to publishing, as part of this proposed rulemaking document, specific standards to be used for

the employment of counselors by State agencies. However, in view of the very recent publication of the uniform employee selection guidelines by the Department, the Department of Justice, the Civil Service Commission, and the Equal Employment Opportunity Commission, and the emphasis in those guidelines of validating personnel standards with respect to equal employment opportunity, the Department has decided not to publish specific standards at this time. The Department will continue to study this issue.

THE NEED FOR CHANGES

These proposed regulations are part of an attempt to revise and update the management and operation of the employment service system. Prior to November 1976, the State employment service agencies were required to follow Federal regulations at 20 CFR Parts 601-604, a myriad of procedures contained in the Employment Security Manual established at 20 CFR 603.4, and numerous field instructions.

The new regulations issued or under development for 20 CFR Parts 651-658 will provide Federal policy and requirements which must be adhered to by State employment service agencies.

The Department is especially interested in comments and suggestions with respect to ways of simplifying and clarifying the provisions of the regulations.

SUMMARY OF PROPOSED CHANGES

1. Sections of 20 CFR Parts 601-604 which are superseded by these regulations will be deleted.

2. A new part 653, subpart A, of this chapter is proposed which will contain regulations governing services which each State employment service agency must make available to applicants and employers. For example, with respect to services for women, § 653.6, *Job Development*, § 653.10 *Discriminatory Job Orders*, and § 653.12 *Employer Services* require the State agency to, among other things, develop nontraditional jobs for women, accept no job order discriminating by sex, and educate employers to nontraditional job roles for women.

3. A new part 653, subpart E, of this chapter is proposed which will contain regulations governing services which each State employment service agency must perform in support of basic services, but which may not necessarily be available through all local offices of a given State employment service agency.

4. Additional definitions to 20 CFR 651.7 are proposed. These definitions are generally for terms contained in the proposed subparts. However, at the time of final rulemaking, it is intended that all definitions contained

throughout 20 CFR Parts 651-658 and which apply to all parts will be pulled together into 20 CFR 651.7. Where the same term may have a second definition specific to a particular part, or where a term is specific to a particular part, the appropriate definition will remain in the part for which it is used.

Accordingly, Title 20, Chapter V of the Code of Federal Regulations is proposed to be amended as follows:

PART 602—FEDERAL-STATE EMPLOYMENT SERVICE SYSTEM

1. The following sections in part 602 are proposed to be deleted:

Sec.
602.2 Placement services.
602.4 Occupational analysis.
602.4a Industrial services.
602.5 Services to veterans.
602.6 Labor market information service.
602.7 Participation in community programs.

PART 604—POLICIES OF THE UNITED STATES EMPLOYMENT SERVICE

2. The following sections in part 604 are proposed to be deleted:

Sec.
604.1 The placement process.
604.2 Clearance.
604.3 Employment counseling.
604.4 Services for veterans.
604.6 Service to youth.
604.8 Service to minority groups.
604.9 Preparation and use of labor market information.
604.10 Employment service testing.
604.11 Industrial services.
604.12 Community participation.
604.13 Foreign labor.
604.14 Employer relations.
604.15 Information services.
604.17 Older workers.
604.18 Occupational analysis activities.
604.20 Service to women.
604.21 Employability development services.

PART 651—GENERAL PROVISIONS GOVERNING THE EMPLOYMENT SERVICE SYSTEM

3. The contents for part 651 are amended to read as follows:

Sec.
651.1 Scope and purpose of the Federal-State employment service system.
651.2 Basic structure of the employment service system.
651.3 Authority and effect of regulations for the employment service system.
651.4 Series of operating instructions for the employment service system.
651.5 Federal statutes governing the employment service system.
651.6 Executive orders affecting the employment service system.
651.7 Format of the regulations for the employment service system.
651.8 Consolidated table of contents for parts 651-658.
651.9 Definitions of terms used in parts 651-658.

§ 651.1 [Amended]

4. A new paragraph (c) is added to read as follows:

(c) Neither the ETA nor the State agencies are guarantors of the accuracy or truthfulness of information contained on job orders submitted by employers. No job order accepted or recruited upon by the ES constitutes an offer to contract to which the ETA or a State agency is in any way a party. Nevertheless, material misrepresentation of job order information supplied by the employer constitutes a violation of these regulations, and the procedures at subpart F of part 658 of this chapter shall be followed upon discovery by the ETA or a State agency.

§§ 651.3-651.7 [Redesignated as §§ 651.5-651.9]

5. § 651.3, § 651.4, § 651.5, § 651.6, § 651.7 are redesignated to § 651.5, § 651.6, § 651.7, § 651.8, and § 651.9 respectively.

6. A new § 651.3 and § 651.4 are added to read as follows:

§ 651.3 Authority and effect of regulations for the employment service system.

(a) The regulations governing the employment service system in chapter V of this title are issued under the authority of the Wagner-Peyser Act unless otherwise noted.

(b) The regulations are binding on both Federal and State staff in the Federal/State employment service system. The Assistant Secretary for Employment and Training has the authority to waive any provision(s) of these regulations except to the extent they are required by statute through a notice in the FEDERAL REGISTER which includes:

- (1) The provisions being waived;
- (2) The State agencies affected;
- (3) The reason for the waiver; and
- (4) The period for which the waiver will be in effect.

(c) The ES regulations require State agencies to provide certain services to the public in return for funds appropriated each year under authority of the Wagner-Peyser Act and title III of the Social Security Act. The level of required services provided by a State agency, though, is dependent upon:

- (1) The extent to which the State agency can provide the required services through the proper and efficient administration of its allocated share of the appropriation; and
- (2) The degree to which the State agency is bound by national priorities and special emphasis.

§ 651.4 Series of operating instructions for the employment service system.

(a) Section 12 of the Wagner-Peyser Act authorizes the Secretary to issue instructions to the State agencies for carrying out employment service programs. The Employment and Training Administration (ETA) publishes those instructions as a series of Operating Instructions Handbooks, which are continuing documents, and through a system of temporary directives, which have a maximum effective length of six months.

(b) The Operating Instructions Handbooks and temporary directives are viewed by the Secretary as Federal requirements and thus are binding on both Federal and State staff. The Handbooks will not contain policy or basic requirements beyond that which are established in the regulations, but the Handbooks will contain required procedures which implement the regulations.

(c) Because of the continuing nature of the operating instructions handbooks, each State agency in the employment service system will be offered the opportunity to review and comment on any operating instructions handbook as well as any subsequent substantive amendment or revision prior to its becoming effective.

§ 651.8 [Amended]

7. The table of contents for parts 651-658 is amended by amending the table of contents for part 651, inserting the table of contents of subpart A of part 653, reserving a subpart D, and inserting the table of contents of subpart E of part 653 to read as follows:

PART 651—GENERAL PROVISIONS GOVERNING THE EMPLOYMENT SERVICE SYSTEM

- Sec. 651.1 Scope and purpose of the Federal-State employment service system.
- 651.2 Basic structure of the employment service system.
- 651.3 Authority and effect of regulations for the employment service system.
- 651.4 Series of operating instructions for the employment service system.
- 651.5 Federal statutes governing the employment service system.
- 651.6 Executive orders affecting the employment service system.
- 651.7 Format of the regulations for the employment service system.
- 651.8 Consolidated table of contents for parts 651-658.
- 651.9 Definitions of terms used in parts 651-658.

PART 653—SERVICES OF THE EMPLOYMENT SERVICE SYSTEM

Subpart A—Basic Services of the Employment Service System

- Sec. 653.1 Scope and purpose of this subpart.

- Sec. 653.2 Job information.
- 653.3 Information on supportive services and training and educational opportunities in the local office area.
- 653.4 Registration for work.
- 653.5 Job referral.
- 653.6 Job development.
- 653.7 Employment counseling.
- 653.8 Employment service testing.
- 653.9 Job order taking.
- 653.10 Discriminatory job orders; affirmative action job orders.
- 653.11 Job openings at issue in labor disputes.
- 653.12 Employer services.

Subpart D—Services to the Handicapped [Reserved]

Subpart E—Services in Support of Basic Services

- Sec. 653.400 Scope and purpose of this subpart.
- 653.401 Labor market information (LMI) program.
- 653.402 Occupational analysis activities.
- 653.403 Multistate labor market area agreements.
- 653.404 Automated systems.
- 653.405 Clearance system for job orders for nonagricultural workers.
- 653.406 Recruitment of United States workers for foreign employers.
- 653.407 Participation in administration of the work test.
- 653.408 Coordination with other employment and training programs.
- 653.409 Participation with community programs.
- 653.410 Information service.

§ 651.9 [Amended]

8. In each definition where it applies, the words "shall mean" are amended to read "means."

9. The definition for "DOT" is deleted.

10. The following definitions are amended:

"Applicant" means a person, legally qualified to work in the United States, who has either a partial application or a full application on file with the local office.

"Employment Service (ES)" means the national system of public employment offices consisting of the U.S. Employment Service (USES), its grantee State agencies, and the various offices of the State agencies.

"Job Bank" means a computer assisted system which provides listings of current job openings in an area, on a regular basis, for distribution to ES offices and cooperating agencies.

"Local Office" means a full-time office of a State agency maintained for the purpose of providing the basic services and other services of the employment service system. A local office which serves a significant number of Migrants or Seasonal Farmworkers (MSFW's) means a local office which is officially designated as such by the ETA.

11. The following definitions are added and inserted in alphabetical order:

"Affirmative Action" means a program or procedure intended to provide or foster employment opportunities for members of groups pursuant to legislation, court order, consent decree, government contracts or other fair employment practice authority.

"Clearance" means activities in the placement process involving joint action of local offices in different labor market areas and/or States in the location, selection and the job referral of an applicant.

"Decertification" means the rescission by the Secretary of the certification made under section 5 of the Wagner-Peyser Act to the Secretary of the Treasury that the State agency may receive funds authorized by the Wagner-Peyser Act.

"Dictionary of Occupational Title (DOT)" means the reference book published by the U.S. Employment Service which contains definitions of U.S. job titles, number codes, and worker function data.

"Employer" means (1) a person, firm, or corporation which currently has a location within the United States, or (2) a firm or corporation with a location in a foreign country, to which U.S. workers may be legally referred for employment. See Part 655 or Part 656 of this chapter for the definition of "employer" as it applies to labor certification.

"Establishment" means a public or private employing unit which produces and/or sells goods or services, for example, a mine, factory, or store. It is usually at a single physical location and engaged in one, or predominantly one, type of industrial activity. Each branch or subsidiary unit of a large employer in a geographical area or community should be considered an individual establishment, except that all such units in the same physical location shall be considered a single establishment. A component of an establishment which may not be located in the same physical structure (such as the warehouse of a department store) should also be considered as part of the parent establishment.

"Full Application" means an application for an applicant who has participated in an application interview and which includes the applicant's personal characteristics, work history, and an occupational classification and DOT code.

"Identification Card (Applicant identification card)" means a card given to the applicant on which are recorded identifying information and the dates of the applicant's visits to the local employment office.

"Job Development" means the process of eliciting a public or private em-

ployer's job order for a specific applicant for whom the local office has no suitable opening on file.

"Job Information" means information derived from data compiled in the normal course of employment service activities from reports, job orders, applications and the like.

"Job Opening" means a single job opportunity for which a local office has on file a job order.

"Job Order" means (1) a single request for job referral of one or more applicants to fill one or more job openings in a single occupation classification; also, (2) the record of such a request.

"Job Referral" means (1) the act of bringing to the attention of an employer (or another local office) an applicant, or a group of applicants, who are available for specific job openings or (2) the record of such referral. "Job referral" means the same as "Referral to a job."

"Labor Market Area" means a geographic area consisting of a central city (or cities) and the surrounding territory within a reasonable commuting distance.

"Labor Market Information (LMI)" means that body of information arising from the measurement and evaluation of the socioeconomic forces influencing the employment process in specific labor market areas. The factors that affect labor demand-supply relationships define the content of LMI and include population and growth and characteristics, trends in industrial and occupational structure, technological developments, shifts in consumer demands, unionization and trade disputes, recruitment practices, wage levels, conditions of employment, and training opportunities.

"Partial Application" means the application of an applicant who has not participated in an application interview and which does not include an occupational classification or DOT code. Partial applications prepared for Migrants and Seasonal Farmworkers must include a signed waiver of full services at that time in accordance with 20 CFR 653.103.

"Placement" means the hiring by an employer of an individual referred by the employment office for a job or an interview, providing that the employment office completed all of the following steps: (a) Made prior arrangements with the employer for the referral of an individual or individuals; (b) referred an individual who had not been specifically designated by the employer; (c) verified from a reliable source, preferably the employer, that the individual had entered on the job; and (d) prepared a job order form prior to referral and recorded the placement on appropriate employment service forms.

"Rural Area" means an area which is not included in the urban area of a Standard Metropolitan Statistical Area and which has a population of less than 10,000.

"Secretary" means the Secretary of the U.S. Department of Labor or the Secretary's designee.

"Standard Metropolitan Statistical Area (SMSA)" means a metropolitan area designated as a SMSA by the Bureau of Census which contains (1) at least one city of 50,000 inhabitants or more, or (2) twin cities with a combined population of at least 50,000.

"Supportive Services" means services other than training needed to enable individuals to obtain or retain employment or to participate in employment and training programs. Such services include but are not limited to health care and medical services; child care; resident support; Veterans' Administration assistance; and assistance in securing bonds.

"Tests" means a standardized means of measuring an individual's possession of interest in, or ability to acquire, job skills and knowledge. Use of tests by employment service staff must be in accordance with the provisions of:

(1) 41 CFR, Chapter 60, Part 60-3, *Employee Testing and Other Selection Procedures*; and

(2) 29 CFR Part 30, *Equal Employment Opportunity in Apprenticeship and Training*.

"Training" means a planned, systematic sequence of instruction or other learning experience on an individual or group basis under competent supervision, which is designed to impart skills, knowledges, or abilities to prepare individuals for employment.

"Transaction" means a single ES activity performed in behalf of an individual seeking assistance and/or the result of such an activity; e.g., applicant registration, referral to a job, referral to a supportive service, counseling, interview, testing, job development, job placement, negative job referral, enrollment in training, and inactivation of an applicant registration.

"Vocational Plan" means a plan developed by a counselor and the applicant which describes: (1) The problem in terms of vocational choice, occupational change or job adjustment; (2) the applicant's objective and the steps to be taken to attain it; and (3) the occupational goals and the job search strategy to be used.

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PART 653—SERVICES OF THE EMPLOYMENT SERVICE SYSTEM

12. The Table of Contents for Part 653 is amended by adding contents for

a new Subpart A—Basic Services of the Employment Service System, reserving a Subpart D—Services to the Handicapped, and adding contents for a new Subpart E—Services in Support of Basic Services to read as follows:

Subpart A—Basic Services of the Employment Service System

- Sec.
- 653.1 Scope and purpose of this subpart.
- 653.2 Job information.
- 653.3 Information on supportive services and training and educational opportunities in the local office area.
- 653.4 Registration for work.
- 653.5 Job referral.
- 653.6 Job development.
- 653.7 Employment counseling.
- 653.8 Employment service testing.
- 653.9 Job order taking.
- 653.10 Discriminatory job orders; affirmative action job orders.
- 653.11 Job openings at issue in labor disputes.
- 653.12 Employer services.

Subpart D—Services to the Handicapped [Reserved]

Subpart E—Services in Support of Basic Services

- Sec.
- 653.400 Scope and purpose of this subpart.
- 653.401 Labor market information (LMI) program.
- 653.402 Occupational analysis activities.
- 653.403 Multistate labor market area agreements.
- 653.404 Automated systems.
- 653.405 Clearance system for job orders for nonagricultural workers.
- 653.406 Recruitment of United States workers to foreign employers.
- 653.407 Participation in administration of the work test.
- 653.408 Coordination with other employment and training programs.
- 653.409 Participation with community programs.
- 653.410 Information service.

13. A new Subpart A is added to Part 653 to read as follows:

Subpart A—Basic Services of the Employment Service System

§ 653.1 Scope and purpose of this subpart.

(a) This subpart sets forth those basic employment services which each State agency shall provide to the public. Subparts B, C, and D of this Part 653 describe the special efforts which State agencies must make in providing services to MSFW's, veterans and the handicapped, respectively.

(b) The basic services described in this subpart are the principal ES services which lead to placement of individuals into employment.

(1) Sections 653.2 and 653.3 describe services which must be available to all individuals, regardless of whether they

are registered with the employment service.

(2) Sections 653.4 through 653.8 describe the registration process and those services which may only be provided to applicants.

(3) Sections 653.9 through 653.12 describe those services which are provided employers in eliciting job orders, accepting and servicing those job orders, and assisting employers to make better use of the employment service system.

§ 653.2 Job information.

(a) State agencies shall compile job information for the purpose of providing it to the public.

(b) Each State agency shall make available job information with respect to local office areas to all individuals and, if desired by an individual, job information with respect to other areas within the State, upon request from an individual. State agencies shall assist an individual to obtain job information about jobs in other States in which he/she may have an interest in employment.

(c) Job information available to the public about specific job openings listed with a State agency shall ordinarily include:

- (1) Job title and hiring specifications;
- (2) Salary or wage range;
- (3) Starting date for employment;
- (4) Anticipated duration of employment;
- (5) Any special terms and conditions of employment identified by the employer, including bona fide occupational qualifications;
- (6) Total hours to be worked each week, excluding overtime; and
- (7) Location of worksite, when appropriate.

(d) State agencies shall insure that the policy for disclosure of information at 20 CFR 604.16 is adhered to in providing job information.

§ 653.3 Information on supportive services and training and educational opportunities in the local office area.

Each State agency shall provide information on supportive services that are available from other agencies (e.g., CETA, WIN, State welfare, Veterans' Administration) in the local office area to the public on request, and information on available training and educational opportunities within the local office area to the public on request.

§ 653.4 Registration for work.

(a) State agencies shall register as a job applicant (applicant) individuals legally qualified to work in the United States without regard to place of residence, current employment status, or occupational qualifications. Registra-

tion shall consist of officially recording an individual's availability for referral to job opportunities, training, and/or employability development services on an application form that includes all ETA required data elements. An individual shall have registered with the employment service prior to:

- (1) Job referral;
- (2) Job development;
- (3) Employment counseling; or
- (4) Employment testing.

(b) Except as otherwise required by ES regulations, State agencies may require full or partial applications in registering individuals. When establishing State agency policy on requiring full or partial applications, State agencies shall consider the extent to which a full application is necessary for offering services to applicants which require knowledge of the applicants, skills, knowledges, and abilities such as in job development, employment counseling, and job referral from the active application file when the applicant is not physically present. State agencies, shall, however, require employment service staff to accept a full application from any individual who requests to file a full application.

§ 653.5 Job referral.

State agencies shall refer applicants to job openings listed with the employment service pursuant to the following provisions:

(a) Every attempt shall be made to refer applicants to jobs which utilize the applicant's highest skills, knowledges, and abilities in keeping with the amount of information provided by the applicant and the employer.

(b) In the case of similarly qualified applicants, preference in referring applicants shall be given to the one(s) who are veterans pursuant to § 653.221. In the case of affirmative action job orders, the provisions of § 653.10 shall be followed.

(c) No referral shall be made which results in a charge or fee being levied on the applicant for referral to a job or a referral which results in a charge or fee being levied on the employer for hiring applicants referred by the employment service.

(d) When the employment service staff are performing services under grant, subcontract or other agreement with another federally funded program, e.g., CETA, WIN, Job Corps, referrals to that program shall be made in accordance with the regulations in effect for that program.

§ 653.6 Job development.

(a) State agencies shall develop and implement techniques that result in job openings suitable for specific applicants that can best benefit from such assistance.

(b) State agencies shall develop and implement specialized techniques for women and men applicants in order to facilitate their placement in nontraditional jobs for which they are qualified; and

(c) State agencies shall develop and implement specialized techniques for women and men applicants, especially displaced homemakers, in order to overcome artificial barriers to entry or reentry into the labor market.

§ 653.7 Employment counseling.

(a) State agencies shall provide employment counseling for applicants who are in need of employment counseling services and who accept referral to counseling.

(b) Employment service staff shall be trained to recognize applicants in need of employment counseling and refer them for employment counseling.

(c) Each State's agency's employment counseling service shall have as its objective to assist applicants having problems of vocational choice, occupational change, or job adjustment which interfere with their obtaining employment suitable to them. Each State agency's employment counseling staff shall:

(1) Use tests and other assessment techniques approved by ETA and obtain and use supplementary testing and appraisal services which meet Federal requirements when needed;

(2) Develop a vocational plan for the applicant in cooperation with the applicant, include the vocational plan as part of the applicant's counseling record, and reflect the vocational plan in the assignment of classifications to the applicant; and

(3) Refer applicants to other community resources for training and other services which the State agency is not equipped to provide and which will improve the applicant's individual employability.

(d) Each State agency shall cooperate with schools, community agencies, and other public organizations which also provide counseling and guidance services or which have clients who can benefit from employment counseling services of the State agency.

(e) Employment counseling shall be provided by qualified and trained employment counselors, or by Counselor Trainees or other individuals trained in counseling and designated by the State counseling supervisor in accordance with ETA instructions.

§ 653.8 Employment testing.

(a) Each State agency shall administer an employment testing program in accordance with the following Federal regulations on testing:

(1) 41 CFR, Chapter 60, Part 60-3, *Uniform Guidelines on Employee Selection Procedures (1978)*

(2) 29 CFR Part 30, *Equal Employment Opportunity in Apprenticeship and Training*; and

(3) 29 CFR Part 850, *Records To Be Made or Kept Relating to Age, Notices To Be Posted; Administrative Exemptions*.

(b) In operating the testing program, the State agency shall:

(1) Use only those tests and related techniques developed or approved by the ETA;

(2) Provide for reporting test results to individuals, employers, and other organizations;

(3) Where appropriate, provide for testing employed workers for promotion or transfer, testing apprenticeship candidates for Joint Apprenticeship Committees, and testing civil service candidates under certain conditions; and

(4) Where appropriate, provide for release of certain test materials to other organizations and individuals.

§ 653.9 Job order taking.

(a) State agencies shall accept job orders from an employer except for:

(1) Job orders from an employer who has had services discontinued in accordance with the provisions at Subpart F of Part 658 of this Chapter;

(2) Job orders which contain specifications which are in violation of Federal, State, or local law governing minimum wages, housing standards where housing is offered as a condition of work, and/or child labor laws;

(3) Job orders which contain discriminatory provisions in accordance with § 653.10;

(4) Job orders involving labor disputes in accordance with § 653.11;

(5) Job orders on which a job referral may result in a monetary or other charge being made to either the employer or the applicant; and

(6) Farm labor contractors who are not registered with the Employment Standards Administration where required by Federal law, and who do not possess a valid State certificate where required by State law.

(b) Job orders from establishments with a SIC code of 01 through 07 (agricultural and related industries) or a SIC code of 201, 2033, 2035, or 2037 (certain food processing establishments) which require recruitment from outside the local office area shall be service according to Subpart B, § 653.108 of this Part 653.

(c) Job orders accepted by the State agency shall contain sufficient information to select qualified applicants for job referral and to satisfy ETA reporting requirements.

§ 653.10 Discriminatory job orders; affirmative action job orders.

(a) State agencies shall promote the equal employment opportunity of all applicants on the basis of their skills, knowledge, and abilities as determined from the information provided by the applicant.

(b) State agencies shall not accept any discriminatory job orders. A discriminatory job order is one which indicates a preference or requirement for workers of a specific race, color, religion, sex, age, national origin, citizenship, or physical or mental status, or a requirement for veteran status, except if the requirement is a bona fide occupational qualification (BFOQ). This does not prevent an order from indicating a preference for veterans.

(c) State agencies shall accept affirmative action job orders. An affirmative action job order is one which (1) seeks qualified applicants, particularly applicants who are members of a specified group which has, for reasons of past custom, historical practice, or otherwise been discouraged from entering certain occupational fields, and (2) results only from a court order, the directives of a fair employment practice authority, or the affirmative action provisions of a government contract, grant, loan or the provisions of a Federal, State, or local law.

(d) An employer asserting a bona fide occupational qualification (BFOQ) has the burden of proving that the BFOQ exists. A BFOQ as to sex or age shall be interpreted narrowly. A job order asserting a BFOQ as to sex or age shall be accepted only if the request for applicants of a particular sex or age is not based on assumptions of the comparative employment characteristics of the sexes or age groups, on stereotyped characterizations of the sexes or age groups, or on the preferences of coworkers, the employer, clients, or customers. A job order asserting a BFOQ as to sex or age shall be accepted if the sex or age requirement is necessary for the genuineness of the profession, e.g., with respect to a job order for an actor or actress or a child actor or actress. A job order specifying workers of a particular age group may be accepted if the job order is for training or employment in a Federal or federally assisted employment or training program in which participation is limited to persons of a certain age or age group, or if the job order specification is required by Federal or State law such as Federal or State child labor laws.

(e) A job order asserting a BFOQ based on religion shall be accepted if the employer can demonstrate that the job duties are such that they can only be performed by an individual who is a member of the specified religious denomination.

(f) Whenever an employer submits a discriminatory job order, the State agency shall inform the employer that the job order may not be accepted and the reason why, and shall request the employer to withdraw the discriminatory specifications.

(g) If the employer asserts that the job order is an affirmative action order and cites an authority for that order described at paragraph (c) of this section, the State agency shall note on the order that the order is an affirmative action job order, the authority, and the target group(s), and take the order as usual.

(h) In making job referrals on an affirmative action job order, State agencies shall make every effort to refer, among the qualified applicants referred to the employer, a significant number of qualified members of the target group in order to assist the employer, in selecting workers from those referred, to meet its affirmative action obligations.

(i) State agencies shall attempt to service affirmative action job orders from applicants currently available and through recruitment in the local community, especially through local public agencies such as the CETA prime sponsors. If qualified applicants from the target group are not available, then the employer shall be so informed.

§ 653.11 Job openings at issue in labor disputes.

State agencies shall make no job referrals on job orders which will aid directly or indirectly in the filling of a job opening which is vacant because the former occupant is on strike, or is being locked out in the course of a labor dispute, or the filling of which is otherwise an issue in a labor dispute. In dealing with employing establishments known to have labor disputes which result in job vacancies, State agencies shall insure that:

(a) They are informed of the existence of a labor dispute. When the labor dispute may affect multiple sites, State agencies shall notify all potentially affected staff;

(b) Full referral services are resumed when they have been notified of, and verified with the employer and workers' representative(s), that the labor dispute has been terminated;

(c) Written notification is provided to all applicants referred to jobs not at issue in the labor dispute that a labor dispute exists in the employing establishment and that the job to which he/she is being referred is not at issue in the dispute; and

(d) The State agency shall notify the regional office in writing of the existence of any labor disputes which:

(1) Result in the complete shut down of any establishment at which a

significant number of workers are employed; or

(2) Take place at an establishment of a multiestablishment employer when the employer has other establishments outside the State in which the labor dispute occurs.

§ 653.12 Employer services.

(a) Each State agency shall establish and maintain an employer services program which:

(1) Solicits job orders from employers;

(2) Promotes the maximum use of employment service facilities and services in the recruitment and retention of workers;

(3) Provides information on labor market conditions, and other subjects of interest to the employers;

(4) Provides information to employers covered by the federal contractor job listing program regarding the employers' listing and reporting responsibilities under the provisions of section 2012 of Title 38, United States Code and the Department's veterans' affirmative action regulations at 41 CFR, Chapter 29, Part 60-250; and

(5) Elicits information from employers which will contribute to the State agencies' ability to plan and provide services to them including individual job requirements, anticipated hiring, composition and size of work force, and need for employment services.

(b) Each State agency shall promote employer acceptance of both women and men on the basis of their occupational qualifications through cooperation and participation in the conduct of educational programs with employers, employer groups, and labor unions.

14. A new Subpart E is added to Part 653 to read as follows:

Subpart E—Services in Support of Basic Services

§ 653.400 Scope and purpose of this subpart.

Subpart A of this Part 653 sets forth the basic services of the employment service system. This subpart sets forth the services in support of those basic services.

§ 653.401 Labor market information (LMI) program.

State agencies, under the direction of the ETA, with appropriate assistance from the Bureau of Labor Statistics (BLS) shall:

(a) Maintain an LMI program to collect, analyze, and issue information on current and anticipated labor market developments and opportunities for employment and training;

(b) Submit plans as part of the Program and Budget Plan (PBP) each

fiscal year for using any funds specifically allocated for LMI activities;

(c) Develop labor market information required by the ETA, consistent with LMI allocations, and supplement these with other items appropriate to meet individual State and area needs; and

(d) Disseminate and explain LMI to appropriate groups (e.g., CETA prime sponsors, State Manpower Services Councils, Vocational Education Agencies).

§ 653.402 Occupational analysis activities.

(a) The ETA shall design and maintain an occupational analysis program for the purpose of developing improved occupational information which may then be used to develop job search and career guidance information and techniques. This program shall include collecting, analyzing, and organizing information about the duties and performance requirements of jobs and the relationships that exist among jobs.

(b) State agencies shall inform the ETA of changes that occur in occupations within their State (e.g., new or emerging occupations, changes in job requirements).

(c) State agencies shall identify and classify full applications and job orders by using the Dictionary of Occupational Titles (DOT) and other appropriate means approved by the ETA.

§ 653.403 Multistate labor market area agreements.

(a) When a single labor market area covers part of two or more State, the State agencies involved shall establish and maintain by a written agreement adequate arrangements and procedures to assure that applicants have full access to job opportunities and employers have full access to the available labor supply within the area, without regard to state boundaries. Where such agreements exist: (1) A job order shall be serviced as if it were a local order with referrals being made from either jurisdiction; and (2) the State agency in the jurisdiction in which the applicant has registered shall be credited with the placement.

(b) The appropriate regional office(s) must review and approve all multistate agreements prior to implementation. Modifications to multistate agreements must also be approved by the regional office.

§ 653.404 Automated systems.

(a) State agencies shall establish and maintain automated systems designed to aid in the more effective administration and operation of employment service programs which:

(1) Provide listings of appropriate current job openings in selected areas on a regular basis;

(2) Match qualified applicants with available job openings in selected areas; and

(3) Provide operational and fiscal management information to assist in assessing ES program performance and effectiveness.

(b) ETA shall assist in appraising and selecting sites for the establishment of automated systems. The ETA shall:

(1) Provide assistance to State agencies in establishing automated systems and making them operational; and

(2) Monitor implementation of the systems and their subsequent operation.

(c) State agencies shall insure that:

(1) ES staff, in making job referrals based on the output of automated matching systems, shall follow the requirements for preference in job referral of veteran applicants established at § 653.221(a)(7) and for filling job orders from employers with affirmative action obligations at § 653.10;

(2) Local offices which do not have automated systems as described in paragraphs (b)(1) and/or (b)(2) of this section are provided the same job opening information on a timely basis that is available at nearby local offices which do have automated systems as described at paragraphs (b)(1) and/or (b)(2) of this section. Timely refers to the time necessary to transmit the information between the affected local offices.

(3) Information on applicants and employers in the automated system shall be used in ways consistent with the policies set forth at § 604.16 of this chapter, *Disclosure of Information*, and

(4) CETA prime sponsors are aware of the services available through automated systems and encouraged to obtain such services through the employment service.

(d) Costs for the implementation and maintenance of computer-assisted systems will be shared with other ETA programs in accordance with ETA fiscal standards.

§ 653.405 Clearance system for job orders for nonagricultural workers.

(a) This section applies only to clearance activities conducted by State agencies in areas which are not covered by multistate agreements under § 653.403 for job orders for applicants seeking work in nonagricultural industries, except as provided at § 653.108 which describes procedures to be followed for the interstate clearance of job orders for migrant food processing workers where housing is a condition of employment.

(b) Each State agency shall cooperate with the ETA in establishing and maintaining a system for facilitating the movement of nonagricultural

workers between labor market areas within the State (intrastate clearance), or between the States (interstate clearance). In doing so, each State agency shall:

(1) Serve applicants by referring them to job openings suitable for them when they desire employment in a State different from where they live, or when they cannot be placed locally and will accept employment elsewhere;

(2) Service employers who request such assistance by locating, selecting, and referring qualified applicants from other States when such applicants are not available within the State; and

(3) Recruit qualified applicants from sources within the State before resorting to interstate clearance unless (i) the area is covered by a multistate labor market area agreement or (ii) the State agency anticipates a shortage of workers within the State.

§ 653.406 Job referral of U.S. workers to job openings in foreign countries.

Each State agency shall assist both United States and foreign employers to recruit U.S. workers for employment at a location outside the United States provided that U.S. workers may otherwise legally be referred to such openings and employed at the worksite. Prior to performing this service, the State agency must have a written understanding with the employer involved on the particulars of the referral activity and a copy of this must be sent to the appropriate regional office.

§ 653.407 Participation in administration of the work test.

(a) Each State agency shall participate in the administration of the work test in cases where the following criteria are met:

(1) An individual is required by Federal law, or State unemployment compensation law, to register for referral to employment or training through the facilities of the employment service as a condition of eligibility for, or continuing benefit under either a federally administered or federally assisted program; and

(2) The employment service system is directed to provide work test information or results to a benefit paying agency:

- (i) By Federal legislation; or
- (ii) By directive of the Secretary; or
- (iii) Under national agreement between the U.S. Employment Service and a Federal agency administering such a program.

(b) The role of the State agency shall include:

- (1) Offering appropriate labor exchange services to the applicant;
- (2) Providing information concerning the outcome of labor exchange services to the benefit paying agency in

order that the agency may apply appropriate sanctions, if necessary; and

(3) Where appropriate, serving as a Work Incentive Program Sponsor.

(c) State agencies shall not participate in applying a work test required only by State or local law, other than a State unemployment compensation law, unless funds to support the cost of the work test activity are made available by the applicable jurisdiction or State agency.

(d) A State agency shall make information from employment service files available to a public agency with any duty or responsibility under Parts A or D of Title IV of the Social Security Act upon request of that public agency provided that:

(1) The costs for doing so are paid to the State agency by the appropriate public agency and are not contrary to State law; and

(2) The information concerns an individual receiving benefits or eligible to receive benefits under a program receiving funds under Parts A or D of Title IV of the Social Security Act; and

(3) The information is limited to whether the specified individual(s) have refused an offer of employment and, if so, a description of that employment and its terms, conditions and rate of pay.

§ 653.408 Coordination with other employment and training programs.

(a) Each State agency shall endeavor to establish linkages with other agencies and organizations funded through the Employment and Training Administration. Such linkages shall be consistent with the purposes of the Wagner-Peyser Act.

(b) State agencies shall take steps to enter into agreements with program sponsors, including State and local prime sponsors, under the Comprehensive Employment and Training Act (CETA) which:

(1) Coordinate employment service and CETA activity to the maximum extent possible, both through financial and nonfinancial linkages;

(2) Provide job referral as appropriate to CETA eligibles who are referred to the State Employment Service by the CETA program sponsor;

(3) Minimize duplication of services between CETA program sponsors and State agencies to the CETA eligible population (e.g., act as placement agency for CETA whenever possible);

(4) Assure ES participation in prime sponsor planning councils; and

(5) Assure coordination between prime sponsor staff and veterans employment representatives in providing priority services to veterans and other eligible persons and in filling job openings covered by mandatory listing requirements of 38 U.S.C. 2012.

(c) State agencies should be aware that the following legislation requires the agency responsible for the appropriate activity to include the employment service in that activity as stated below:

(1) Section 107 of the Comprehensive Employment and Training Act of 1973 (CETA) requires that one representative from the employment service sit on each State Manpower Services Council (SMSC);

(2) Section 412(g) of CETA requires the Secretary to use the employment service for job placement of Job Corps enrollees to the fullest extent possible; and

(3) Sections 326, 327, 348 and 803 of CETA require the consideration, and in some cases, use of the employment service as a source of referrals of eligible youth.

§ 653.409 Participation with community programs.

Each State agency shall, wherever practicable:

(a) Cooperate with other public agencies and private nonprofit organizations concerned with employment problems in developing programs for increasing employment opportunities where such will result in more efficient administration of ES activities or use of ES funds; and

(b) Cooperate with and participate in activities with government agencies and private and community organizations with whom the ETA has made national agreements.

§ 653.410 Information service.

Each State agency shall keep the public informed through the use of the public information media, e.g., radio, television, and newspapers, about ES operations and services. Disclosure of identifying information of individual applicants or employers is prohibited unless that disclosure is specifically authorized in writing by each applicant and/or employer, and is in keeping with § 604.16 of this chapter.

PART 658—ADMINISTRATIVE PROVISIONS GOVERNING THE EMPLOYMENT SERVICE

Subpart G—Review and Assessment of State Agency Compliance With Employment Service Regulations

§ 658.601 [Amended]

12. Paragraph (a) is amended as follows:

(a) Each State agency shall establish and maintain a State agency self-appraisal system which complies with the following standards:

(1) Each State agency shall monitor its ES program against established goals, standards, and procedures to determine its success in reaching goals

and to correct deficiencies in performance. The State agency Program and Budget Plan (PBP) shall be the basic planning document against which performance shall be measured. The State office shall insure that any local office plans and district or area plans reflect and support the numerical goals and standards contained in the State agency PBP.

(2) The provisions of ES regulations which require the assessment of services to special applicant groups, e.g., services to veterans (20 CFR 653.230) and services to MSFW's (20 CFR 653.111), shall supplement the appraisal of employment services as described in this section.

(3) Each State agency shall select key numerical indicators which best measure ES performance in categories which reflect current Federal emphases stated in the State agency PBP Guidelines prepared by ETA. At a minimum, appraisal shall be conducted in the following performance areas:

(i) Placements, both individuals placed and transactions;

(ii) Employment counseling;

(iii) Services to special applicant groups;

(iv) Job openings received and filled;

(v) Total staff years worked and productivity per staff year worked with separate consideration for special project staff funded under Title III of the Social Security Act and under the Wagner-Peyser Act;

(4) To appraise key numerical indicators, actual results as shown on Employment Security Automated Reporting System tables and cost accounting reports shall be compared to planned goals each quarter. Significant deviations from plan shall be explained and actions proposed to correct deficiencies described.

(5) Each State agency shall develop nonnumerical methods and procedures to assess the quality of services provided applicants, employers and the community at large by each local office with respect to the basic services at Part 653 of this chapter. Nonnumerical appraisal shall involve the observation of processes, review of documents used in providing services, and the solicitation of input on effectiveness of services from clients. Results of nonnumerical appraisal shall be documented and shall include plans to correct deficiencies, where they exist. Nonnumerical assessment shall be based, at a minimum, on the following factors:

(i) Prompt delivery of services;

(ii) Thoroughness and accuracy of documents prepared;

(iii) Equitable and courteous treatment of applicants and others;

(iv) Appropriateness of job referral and other services;

(v) Extent of services provided in relation to the need for services;

(vi) Provision for input from applicants and the community; and

(vii) Effectiveness of ES coordination with other ETA programs.

(6) Each State agency shall insure that performance appraisal is conducted as follows:

(i) At the local level, key data indicators (numerical appraisal) are assessed each quarter and processes and procedures within the local office (nonnumerical appraisal) are assessed at least once annually. Results of each type of appraisal shall be communicated to the next higher level of authority for review.

(ii) At the area or district level, the composite of numerical indicators within each area of district jurisdiction is assessed against area/district goals each quarter. Results of this appraisal shall be communicated to the next higher authority for review; and

(iii) At the State office level:

(A) Statewide totals of numerical performance indicators are assessed each quarter;

(B) State office employment service operations are analyzed to assess progress made on goals and objectives established for State office staff each quarter;

(C) Technical assistance is delivered as needed and coordination exists between State office staff and local office and area/district staff; and

(D) Problems resulting from State office processes and procedures are identified and corrected.

(7) Each State office shall oversee local office area or district performance appraisal as follows:

(i) Review numerical appraisal reports from local offices on a scheduled basis, so that a report from each local office is reviewed annually and area/district numerical appraisal reports are reviewed quarterly to determine significant problem areas requiring direct State office involvement; and

(ii) Conduct, at a minimum, onsite reviews in those local offices which show persistent deficiencies in performance or give evidence of continuing internal problems as determined by such things as reviews of data, requests for technical assistance from field operations, and complaints received from the public; and

(iii) Determine the effectiveness of the appraisal system Statewide by insuring that appraisal reviews are conducted in accordance with this section and that reports are properly completed and submitted on time.

(8) Each State agency shall take action to correct deficiencies uncovered by the self-appraisal process. Plans to correct deficiencies shall be specific, establish who will do what and when, contain a timetable for fol-

PROPOSED RULES

indicators selected, to the ETA Regional Administrator (RA) for review and concurrence prior to implementation. Substantive changes in the self-appraisal system shall be submitted to the regional office for concurrence. State agency self-appraisal systems shall provide for ETA staff participation in reviews and assessment of internal ES operations at all levels in order to allow for proper ETA oversight and support of ES program objectives.

Signed at Washington, D.C., this 19th day of October 1978.

RAY MARSHALL,
Secretary of Labor.

[FR Doc. 78-29920 Filed 10-23-78; 8:45 am]

lowup action, and indicate results of previous actions taken. Planning for performance improvement shall be conducted at each level within the State agency. Technical assistance from administrative, staff, and technical services (A.S. & T.) and program specialist staff shall be considered in planning for performance improvement. Superior local office performance shall be recognized by the State office and factors underlying superior performance shall be used to improve performance elsewhere, as appropriate.

(9) Each State agency shall submit its self-appraisal system including forms developed, procedures, staff responsibilities, methodology, and key

Register
Federal Order

TUESDAY, OCTOBER 24, 1978

PART VI



DEPARTMENT OF
AGRICULTURE
Agricultural Marketing
Service

MILK IN THE
SOUTHWESTERN
IDAHO—EASTERN
OREGON MARKETING
AREA

Hearing on Proposed Marketing
Agreement and Order

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 1135]

[Docket No. AO-380]

MILK IN THE SOUTHWESTERN IDAHO-EASTERN OREGON MARKETING AREA

Hearing on Proposed Marketing Agreement and Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Public hearing on proposed rulemaking.

SUMMARY: This hearing is being held to consider a proposed milk order that would regulate the handling of milk in an area designated as the Southwestern Idaho-Eastern Oregon marketing area. Three dairy farmer cooperatives requested the proposed milk order. The marketing area of the proposed order would include 18 southwestern Idaho and five eastern Oregon counties. Proponents contend that a milk order is needed to establish and maintain orderly marketing conditions and a stable price structure to producers in the area.

DATE: Comments due on: December 5, 1978.

ADDRESS: Send comments to: Federal Building, U.S. Courthouse, 550 West Fort Street, Boise, Idaho 83724.

FOR FURTHER INFORMATION CONTACT:

Maurice M. Martin, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-7183.

SUPPLEMENTARY INFORMATION: Notice is hereby given of a public hearing to be held at the Federal Building, U.S. Courthouse, 550 west Fort Street, Boise, Idaho 83724 beginning at 10 a.m., local time, on December 5, 1978, with respect to a proposed marketing agreement and order, regulating the handling of milk in the Southwestern Idaho-Eastern Oregon marketing area.

The hearing is called pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

The hearing is for the purpose of:

(a) Receiving evidence with respect to economic and marketing conditions which relate to the proposed marketing agreement and order, hereinafter set forth, and any appropriate modifications thereof;

(b) Determining whether the handling of milk in the area proposed for regulation is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects interstate or foreign commerce;

(c) Determining whether there is need for a marketing agreement or order regulating the handling of milk in the area; and

(d) Determining whether the proposed marketing agreement and order or appropriate modifications thereof will tend to effectuate the declared policy of the Act.

The proposals, set forth below, have not received the approval of the Secretary of Agriculture.

Proposed by Dairymen's Creamery Association, Inc.; Mountain Empire, Dairymen's Association; and Western General Dairies, Inc.:

PROPOSAL NO. 1

GENERAL PROVISIONS

§ 1135.1 General Provisions.

The terms, definitions, and provisions in part 1000 of this chapter are hereby incorporated by reference and made a part of this order.¹

DEFINITIONS

§ 1135.2 Southwestern Idaho-Eastern Oregon marketing area.

"Southwestern Idaho-Eastern Oregon marketing area," hereinafter called the "marketing area" means all the territory, all Government reservations and installations and all municipalities within the counties listed below:

IDAHO

Adams	Gooding
Ada	Jerome
Blaine	Lincoln
Boise	Minidoko
Camas	Owyhee
Canyon	Payette
Cassia	Twin Falls
Elmore	Valley
Gem	Washington

OREGON

Baker	Malheur
Grant	Union
Harney	

§ 1135.3 Route disposition.

"Route disposition" means any delivery of a fluid milk product classified as Class I milk from a plant to a retail or wholesale outlet (including any delivery through a distribution point, by a vendor, from a plant store or through a vending machine) except a delivery to another plant.

¹The provisions of part 1000 (7 CFR Part 1000) are set forth immediately following Proposal No. 1.

§ 1135.4 [Reserved].

§ 1135.5 Distributing plant.

"Distributing plant" means a plant in which milk approved by a duly constituted regulatory agency for fluid consumption, or filled milk, is processed or packaged and from which there is route disposition in the marketing area during the month.

§ 1135.6 Supply plant.

"Supply plant" means a plant from which a fluid milk product acceptable to a duly constituted regulatory agency for fluid consumption, or filled milk, is transferred during the month to a pool distributing plant.

§ 1135.7 Pool plant.

Except as provided in paragraph (c) of this section, "pool plant" means:

(a) A distributing plant that during the month has:

(1) Route disposition, except filled milk, representing not less than 50 percent of its total receipts of Grade A fluid milk products (including milk diverted from such plant to a nonpool plant pursuant to § 1135.13); and

(2) Route disposition, except filled milk, in the marketing area representing not less than 10 percent of such receipts.

(b) A supply plant from which during the month not less than 50 percent of its Grade A milk receipts from dairy farmers (including milk diverted from such plant to a nonpool plant pursuant to § 1135.13) is transferred to a pool distributing plant pursuant to paragraph (a) of this section as fluid milk products, except filled milk. Any supply plant that has qualified as a pool plant in each of the immediately preceding months of August through February shall be a pool plant in each of the following months of March through July unless written request for nonpool status for any such month is filed by the plant operator with the market administrator prior to the first day of any such month. A plant withdrawn from supply pool plant status may not be reinstated for any subsequent month of the March through July period unless it fulfills the transferring requirement of this paragraph for such month.

(c) The term "pool plant" shall not apply to the following plants:

(1) A producer-handler plant;

(2) A distributing plant qualified pursuant to paragraph (a) of this section that also meets the pool plant requirements of an other Federal order on the basis of route disposition in such other marketing area, and from which, the Secretary determines, a greater quantity of Class I milk, except filled milk, is disposed of during the month as route disposition in this marketing area than is disposed

of in such other marketing area but which plant is nevertheless fully regulated under such other Federal order;

(3) A supply plant qualified pursuant to paragraph (b) of this section that also meets the pool plant requirements of an other Federal order and from which greater qualifying transfers are made during the months to plants regulated under such other order than are made to plants regulated under this order, except during the months of March through July if the transfers to the other order plant are for surplus disposition and the operator of the supply plant elects to retain automatic pooling under this part; or

(4) A distributing plant from which less than an average of 300 pounds of Class I milk per day, except filled milk, is disposed of in the marketing area during the month.

§ 1135.8 Nonpool plant.

"Nonpool plant" means any milk, or filled milk receiving, manufacturing, or processing plant other than a pool plant. This definition shall include, but not be limited to, the following categories of plants:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a distributing plant that does not qualify as a pool plant and is not an other order plant, a producer-handler plant or an exempt distributing plant.

(d) "Unregulated supply plant" means a supply plant that does not qualify as a pool supply plant and is not an other order plant, a producer-handler plant, or an exempt distributing plant.

(e) "Exempt distributing plant" means a distributing plant defined in § 1135.7(c)(4).

§ 1135.9 Handler.

"Handler" means:

(a) Any person in his capacity as the operator of a pool plant;

(b) Any cooperative association with respect to milk of its producers that is diverted pursuant to § 1135.13 for the account of the cooperative association;

(c) Any cooperative association with respect to milk of its producers that is received at the farm for delivery to the pool plant of another handler in a tank truck owned and operated by or under contract to such cooperative association;

(d) Any person in his capacity as the operator of a partially regulated distributing plant;

(e) Any person defined as a producer-handler;

(f) Any person in his capacity as the operator of an other order plant described in § 1135.7(c);

(g) Any person in his capacity as the operator of an unregulated supply plant; and

(h) Any person in his capacity as the operator of an exempt distributing plant.

§ 1135.10 Producer-handler.

"Producer-handler" means any person who:

(a) Operates a dairy farm and a distributing plant;

(b) Receives fluid milk products only from:

(1) His own dairy farm production; and

(2) Pool plants or other order plants (by transfers) in an amount that is not in excess of the lesser of 5 percent of his Class I utilization during the month or 5,000 pounds;

(c) Does not reprocess or convert milk products into fluid milk products except to increase the nonfat milk solids content above that of the fluid milk products received only the addition of nonfat dry milk; and

(d) Provides proof satisfactory to the market administrator that:

(1) The care and management of the dairy animals and other resources necessary to produce the entire amount of milk handled (other than that received from regulated plants) is the personal enterprise of and at the personal risk of such person; and

(2) Such plant is operated under his complete and exclusive management and control and at his sole risk, and is not used during the month to process, package, receive or otherwise handle fluid milk products for any other person; and

(3) For the purpose of this section, all fluid milk products disposed of on routes or at stores operated by him or by any person (including the operator of a plant, or a vendor) who controls or is controlled by him (e.g., as an interlocking stockholder) or in which he (including, in the case of a corporation, any stockholder therein) has a financial interest, shall be considered as having been received at his plant; and the utilization for such plant shall include all such route and store dispositions.

§ 1135.11 [Reserved]

§ 1135.12 Producer.

(a) Except as provided in paragraph (b) of this section, "producer" means any person:

(1) Who produces milk in compliance with the fluid milk inspection requirements of a duly constituted regulatory agency; and

(2) Whose milk is received at a pool plant or diverted from a pool plant to a nonpool plant that is not a producer-handler plant within the limits set forth in § 1135.13.

(b) "Producer" shall not include:

(1) A producer-handler as defined in any order (including this part) issued pursuant to the Act;

(2) Any person with respect to milk produced by him diverted to a pool plant from an other order plant if the other order designates such person as a producer under that order and such milk is allocated to Class II or Class III utilization pursuant to § 1135.44(a)(8)(iii) and the corresponding step of § 1135.44(b);

(3) Any person with respect to milk produced by him which is reported as diverted to an other plant if any portion of such person's milk so moved is assigned to Class I under the provisions of such other order or the other order designates such person as a producer under such order.

§ 1135.13 Producer milk.

"Producer milk" means the milk of a producer which is:

(a) With respect to a handler described in § 1135.9(a):

(1) Received at his pool plant directly from the producer;

(2) Received at his pool plant from a handler described in § 1135.9(c); or

(3) Diverted for his account from his pool plant to a nonpool plant that is not a producer-handler plant, subject to the conditions set forth in paragraph (d) of this section;

(b) With respect to a handler described in § 1135.9(b), diverted for such handler's account from a pool plant, to a nonpool plant that is not a producer-handler plant, subject to the conditions set forth in paragraph (d) of this section;

(c) With respect to a handler described in § 1135.9(c), received by the handler from the producer's farm in excess of the producer's milk that is received at pool plants pursuant to paragraph (a)(2) of this section;

(d) The following conditions shall apply to milk of a producer diverted from a pool plant to a nonpool plant that is not a producer-handler plant:

(1) A cooperative association may divert for its account the milk of any producer (other than producer milk diverted pursuant to paragraph (d)(2) of this section) from whom at least 40 percent of his milk production is received during the month at a pool plant. The total quantity of milk so diverted may not exceed 50 percent in the months of March through July and 40 percent in other months of the producer milk which the association causes to be delivered to pool plants during the month. Two or more cooperative associations may have their al-

lowable diversions computed on the basis of the combined deliveries of the producer milk which the associations cause to be delivered to pool plants if each association has filed a request in writing with the market administrator on or before the first day of the month the agreement is effective. This request shall specify the basis for assigning over-diverted milk to the producer deliveries of each cooperative according to a method approved by the market administrator.

(2) The operator of a pool plant (other than a cooperative association) may divert for his account the milk of any producer (other than producer milk diverted pursuant to paragraph (d)(1) of this section) from whom at least 40 percent of his milk production is received during the month at the pool plant. The total quantity of milk so diverted may not exceed 50 percent in the months of March through July and 40 percent in other months of the milk received at such pool plant from producers and for which the operator of such plant is the handler during the month. The milk for which the operator of such plant is the handler during the month shall not duplicate milk diverted pursuant to paragraph (d)(1) of this section;

(3) Diversions in excess of such percentages shall not be producer milk, and the diverting handler shall designate the dairy farmers whose milk is not producer milk. If the handler fails to make such designation, no milk diverted by him shall be producer milk.

(4) The quantity of milk diverted for the account of a cooperative association from a pool plant to another handler that would cause the pool plant to become a nonpool plant shall not be producer milk.

§ 1135.14 Other source milk.

"Other source milk" means all skim milk and butterfat contained in or represented by:

(a) Receipts of fluid milk products and bulk fluid cream products from any source other than producers, handlers described in § 1135.9(c), pool plants, or inventory at the beginning of the month;

(b) Receipts in packaged form from other plants or products specified in § 1135.40(b)(1);

(c) Products (other than fluid milk products and products specified in § 1135.40(b)(1)) from any source (including those products produced at the plant) which are reprocessed, converted into, or combined with another product in the plant during the month; and

(d) Receipts of any milk product (other than a fluid milk product or a product specified in § 1135.40(b)(1)) for which the handler fails to establish a disposition.

§ 1135.15 Fluid milk product.

(a) Except as provided in paragraph (b) of this section, "fluid milk product" means any of the following products in fluid or frozen form: Milk, skim milk, lowfat milk, milk drinks, buttermilk, filled milk, and milkshake and ice milk mixes containing less than 20 percent total solids, including any such products that are flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted.

(b) The term "fluid milk product" shall not include:

(1) Evaporated or condensed milk (plain or sweetened), evaporated or condensed skim milk (plain or sweetened), formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

§ 1135.16 Fluid cream product.

"Fluid cream product" means cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixture) of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

§ 1135.17 Filled milk.

"Filled milk" means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers or flavoring) resembles milk or any other fluid product, and contains less than 6 percent nonmilk fat (or oil).

§ 1135.18 Cooperative association.

"Cooperative association" means any cooperative marketing association of producers which the Secretary determines, after application by the cooperative association:

(a) To be qualified under the provisions of the Act of February 18, 1922, as amended, known as the "Capper-Volstead Act";

(b) To have full authority in the sale of milk of its members and to be engaged in making collective sales of or marketing milk for its members; and

(c) To have its entire activities under the control of its members.

HANDLER REPORTS

§ 1135.30 Reports of receipts and utilization.

On or before the seventh day after the end of the month, each handler shall report to the market administrator, in the detail and on the forms prescribed by the market administrator, the following information for such month:

(a) Each handler, with respect to each of his pool plants, shall report the quantities of skim milk and butterfat contained in or represented by:

(1) Receipts of producer milk, including producer milk diverted by the handler from the pool plant to the other plants;

(2) Receipts of milk from handlers described in § 1135.9(c);

(3) Receipts of fluid milk products and bulk fluid cream products from other pool plants;

(4) Receipts of other source milk;

(5) Inventories at the beginning and end of the month of fluid milk products specified in § 1135.40(b)(1); and

(6) The utilization or disposition of all milk, filled milk, and milk products required to be reported pursuant to this paragraph.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. Such report shall show also the quantity of any reconstituted skim milk in route disposition in the marketing area.

(c) Each handler described in § 1135.9 (b) and (c) shall report:

(1) The quantities of all skim milk and butterfat contained in receipts of milk from producers; and

(2) The utilization or disposition of all such receipts.

(d) Each handler not specified in paragraphs (a) through (c) of this section shall report with respect to his receipts and utilization of milk, filled milk, and milk products in such manner as the market administrator may prescribe.

§ 1135.31 Payroll reports.

(a) On or before the eighth day after the end of each month, each handler described in § 1135.9 (a), (b), and (c) shall report to the market administrator, in the detail prescribed by the market administrator, the following information showing for each producer for such month:

(1) His name and address;

(2) The number of days on which milk was received from such producer;

(3) The total pounds of milk received from such producer;

(4) The average butterfat content of such milk;

(5) In the case of cooperative associations, the identity of producers for whom the cooperative association is authorized to collect payment pursuant to § 1135.73;

(6) The amount and nature of any deductions authorized in writing by the producer to be made from payments due such producer for milk delivered.

(b) On or before the 21st day of each month, each handler described in § 1135.9 (a), (b), and (c) shall report to the market administrator, in detail and on forms prescribed by him, the name and address of each producer from whom milk was received during the first 15 days of such month, and the total pounds of milk so received during said period from such producer.

(c) Each handler operating a partially regulated distributing plant who elects to make payments pursuant to § 1135.76(b) shall report for each dairy farmer who would have been a producer if the plant had been fully regulated in the same manner as prescribed for reports required by paragraph (a) of this section.

§ 1135.32 Other reports.

In addition to the reports required pursuant to §§ 1135.30 and 1135.31, each handler shall report such other information as the market administrator deems necessary to verify or establish such handler's obligation under the order.

CLASSIFICATION OF MILK

§ 1135.40 Classes of utilization.

Except as provided in § 1135.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1135.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section; and

(2) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product, eggnog, yogurt, and any product containing 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, eggnog, or yogurt, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b)(1) of this section;

(3) In bulk fluid milk products and bulk fluid cream products disposed of to any commercial food processing establishment (other than a milk or filled milk plant) at which food prod-

ucts (other than milk products and filled milk) are processed and from which there is no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages; and

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, and dry curd cottage cheese;

(ii) Milkshake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes;

(iii) Any concentrated milk product in bulk, fluid form other than that specified in paragraph (c)(1)(iv) of this section;

(iv) Plastic cream, frozen cream, and anhydrous milkfat;

(v) Custards, puddings, and pancake mixes; and

(vi) Formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cheese (other than cottage cheese, lowfat cottage cheese, and dry curd cottage cheese);

(ii) Butter;

(iii) Any milk product in dry form;

(iv) Any concentrated milk product in bulk, fluid form that is used to produce a Class III product;

(v) Evaporated or condensed milk (plain or sweetened) in a consumer-type package and evaporated or condensed skim milk (plain or sweetened) in a consumer-type package; and

(vi) Any product not otherwise specified in this section;

(2) In inventory at the end of the month of fluid milk products in bulk or packaged form and products specified in paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products and products specified in paragraph (b)(1) of this section that are disposed of by a handler for animal feed;

(4) In fluid milk products and products specified in paragraph (b)(1) of this section that are dumped by a handler if the market administrator is notified of such dumping in advance and is given the opportunity to verify such disposition;

(5) In skim milk in any modified fluid milk product that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1135.15; and

(6) In shrinkage assigned pursuant to § 1135.41(a) to the receipts specified in § 1135.41(a)(2) and in shrinkage specified in § 1135.41 (b) and (c).

1135.41 Shrinkage.

For purposes of classifying all skim milk and butterfat to be reported by a

handler pursuant to § 1135.30, the market administrator shall determine the following:

(a) The pro rata assignment of shrinkage of skim milk and butterfat, respectively, at each pool plant to the respective quantities of skim milk and butterfat:

(1) In the receipts specified in paragraph (b)(1) through (6) of this section and which shrinkage is allowed pursuant to such paragraph; and

(2) In other source milk not specified in paragraph (b)(1) through (6) of this section which was received in the form of a bulk fluid milk product or a bulk fluid cream product;

(b) The shrinkage of skim milk and butterfat, respectively, assigned pursuant to paragraph (a) of this section to the receipts specified in paragraph (a)(1) of this section that is not in excess of:

(1) Two percent of the skim milk and butterfat, respectively, in producer milk (excluding milk diverted by the plant operator to another plant and milk received from a handler described in § 1135.9(c));

(2) Plus 1.5 percent of the skim milk and butterfat, respectively, in milk received from a handler described in § 1135.9(c), except that, if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and the butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be 2 percent;

(3) Plus 0.5 percent of the skim milk and butterfat, respectively, in producer milk diverted from such plant by the plant operator to another plant, except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be zero;

(4) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other pool plants;

(5) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other order plants, excluding the quantity for which Class II or Class III classification is requested by the operators of both plants;

(6) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received from unregulated supply plants, excluding the quantity for which Class II or Class III classification is requested by the handler; and

(7) Less 1.5 percent of the skim milk and butterfat, respectively, in bulk

fluid milk products transferred to other plants that is not in excess of the respective amounts of skim milk and butterfat to which percentages are applied in paragraph (b) (1), (2), (4), (5), and (6) of this section;

(c) The quantity of skim milk and butterfat, respectively, in shrinkage of milk from producers for which a cooperative association is the handler pursuant to § 1135.9 (b) or (c), but not in excess of 0.5 percent of the skim milk and butterfat, respectively, in such milk. If the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph for the cooperative association shall be zero.

§ 1135.42 Classification of transfers and diversions.

(a) *Transfers to pool plants.* Skim milk or butterfat transferred in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant shall be classified as Class I milk unless both handlers request the same classification in another class. In either case, the classification of such transfers shall be subject to the following conditions:

(1) The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee-plant after the computation pursuant to § 1135.44(a)(12) and the corresponding step of § 1135.44(b);

(2) If the transferor-plant received during the month other source milk to be allocated pursuant to § 1135.44(a)(7) or the corresponding step of § 1135.44(b), the skim milk or butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor-handler received during the month other source milk to be allocated pursuant to § 1135.44(a) (11) or (12) or the corresponding steps of § 1135.44(b), the skim milk or butterfat so transferred, up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent than would be the case if the other source milk had been received at the transferee-plant.

(b) *Transfers and diversions to other order plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or transferred in the form of a bulk fluid cream product from a pool plant to an other order plant shall be classified in the following manner. Such classification shall

apply only to the skim milk or butterfat that is in excess of any receipts at the pool plant from the other order plant of skim milk and butterfat, respectively, in fluid milk products and bulk fluid cream products, respectively, that are in the same category as described in paragraph (b) (1), (2), or (3) of this section:

(1) If transferred as packaged fluid milk products, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in paragraph (b)(3) of this section);

(3) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators, transfers or diversions in bulk form shall be classified as Class II or Class III milk to the extent of such utilization available for such classification pursuant to the allocation provisions of the other order;

(4) If information concerning the classes to which such transfers or diversions were allocated under the other order is not available to the market administrator for the purpose of establishing classification under this paragraph, classification shall be as Class I, subject to adjustments when such information is available;

(5) For purposes of this paragraph, if the other order provides for a different number of classes of utilization than is provided for under this part, skim milk or butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk, and skim milk or butterfat allocated to the other classes shall be classified as Class III milk; and

(6) If the form in which any fluid milk product that is transferred to an order plant is not defined as a fluid milk product under such other order, classification under this paragraph shall be in accordance with the provisions of § 1135.40.

(c) *Transfers to producer-handlers and transfers and diversions to exempt distributing plants.* Skim milk or butterfat in the following forms that is transferred from a pool plant to a producer-handler under this or any other Federal order or transferred or diverted from a pool plant to an exempt distributing plant shall be classified:

(1) As Class I milk, if so moved in the form of a fluid milk product; and

(2) In accordance with the utilization assigned to it by the market administrator, if transferred in the form of a bulk fluid cream product. For this purpose, the transferee's utilization of skim milk and butter fat in each class, in series beginning with Class III, shall

be assigned to the extent possible to its receipts of skim milk and butterfat, respectively, in bulk fluid cream products, pro rata to each source.

(d) *Transfers and diversions to other nonpool plants.* Skim milk or butterfat transferred or diverted in the following forms from a pool plant to a nonpool plant that is not an other order plant, a producer-handler plant, or an exempt distributing plant shall be classified:

(1) As Class I milk, if transferred in the form of a packaged fluid milk product; and

(2) As Class I milk, if transferred or diverted in the form of a bulk fluid milk product or transferred in the form of a bulk fluid cream product, unless the following conditions apply:

(i) If the transferor-handler or diverter-handler so requests and the conditions described in paragraphs (d)(2)(i) (a) and (b) of this section are met, transfers or diversions in bulk form shall be classified on the basis of the assignment of the nonpool plant's utilization to its receipts as set forth in paragraphs (d)(2) (ii) through (viii) of this section:

(a) The transferor-handler or diverter-handler claims such classification in his report of receipts and utilization filed pursuant to § 1135.30 for the month within which such transaction occurred; and

(b) The nonpool plant operator maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available for verification purposes if requested by the market administrator;

(ii) Route disposition in the marketing area of each Federal milk order from the nonpool plant and transfers of packaged fluid milk products from such nonpool plant to plants fully regulated thereunder shall be assigned to the extent possible in the following sequence:

(a) Pro rata to receipts of packaged fluid milk products at such nonpool plant from pool plants;

(b) Pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from other order plants;

(c) Pro rata to receipts of bulk fluid milk products at such nonpool plant from pool plants; and

(d) Pro rata to any remaining unassigned receipts of bulk fluid milk products at such nonpool plant from other order plants; and

(iii) Any remaining Class I disposition of packaged fluid milk products from the nonpool plant shall be assigned to the extent possible pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from pool plants and other order plants;

(iv) Transfers of bulk fluid milk products from the nonpool plant to a plant fully regulated under any Federal milk order, to the extent that such transfers to the regulated plant exceed receipts of fluid milk products from such plant and are allocated to Class I at the transferee-plant, shall be assigned to the extent possible in the following sequence:

(a) Pro rata to receipts of fluid milk products at such nonpool plant from pool plants; and

(b) Pro rata to any remaining unassigned receipts of fluid milk products at such nonpool plant from other order plants;

(v) Any remaining unassigned Class I disposition from the nonpool plant shall be assigned to the extent possible in the following sequence:

(a) To such nonpool plant's receipts from dairy farmers who the market administrator determines constitute regular sources of Grade A milk for such nonpool plant; and

(b) To such nonpool plant's receipts of Grade A milk from plants not fully regulated under any Federal milk order which the market administrator determines constitute regular sources of Grade A milk for such nonpool plant;

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class III utilization, and then to Class II utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants to the extent possible first to any remaining Class III utilization, then to any remaining Class II utilization, and then to Class I utilization at such nonpool plant; and

(viii) In determining the nonpool plant's utilization for purposes of this subparagraph, any fluid milk products and bulk fluid cream products transferred from such nonpool plant to a plant not fully regulated under any Federal milk order shall be classified on the basis of the second plant's utilization using the same assignment priorities at the second plant that are set forth in this subparagraph.

§ 1135.43 General classification rules.

In determining the classification of producer milk pursuant to § 1135.44, the following rules shall apply:

(a) Each month the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to § 1135.30 and shall compute separately for each pool plant and for each cooperative associ-

ation with respect to milk for which it is the handler pursuant to § 1135.9 (b) or (c) the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1135.40, 1135.41, and 1135.42;

(b) If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids; and

(c) The classification of producer milk for which a cooperative association is the handler pursuant to § 1135.9 (b) or (c) shall be determined separately from the operations of any pool plant operated by such cooperative association.

§ 1135.44 Classification of producer milk.

For each month the market administrator shall determine the classification of producer milk of each handler described in § 1135.9(a) for each of his pool plants separately and of each handler described in § 1135.9 (b) and (c) by allocating the handler's receipts of skim milk and butterfat to his utilization as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk in shrinkage specified in § 1135.41(b);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products received in packaged form from an other order plant, except that to be subtracted pursuant to paragraph (a)(7)(vi) of this section, as follows:

(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(4) Subtract from the pounds of skim milk in Class II the pounds of skim milk in products specified in § 1135.40(b)(1) that were received in packaged form from other plants, but

not in excess of the pounds remaining in Class II;

(5) Except for the first month that a pool plant is subject to this subparagraph, subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1135.40(b)(1) that were in inventory at the beginning of the month in packaged form, but not in excess of the pounds of skim milk remaining in Class II. This subparagraph shall apply only if the pool plant was subject to the provisions of this subparagraph or comparable provisions of another Federal milk order in the immediately preceding month;

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk (except that received in the form of a fluid milk product or a fluid cream product) that is used to produce, or added to any product specified in § 1135.40(b), but not in excess of the pounds of skim milk remaining in Class II;

(7) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk (except that received in the form of a fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1135.40(b)(1) that were not subtracted pursuant to paragraph (a) (4), (5), and (6) of this section;

(ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established;

(iii) Receipts of fluid milk products from unidentified sources;

(iv) Receipts of fluid milk products from a producer-handler as defined under this or any other Federal milk order and from an exempt distributing plant;

(v) Receipts of reconstituted skim milk in filled milk from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) of this section;

(vi) Receipts of reconstituted skim milk in filled milk from an other order plant that is regulated under any Federal milk order providing for individual-handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor-plant;

(8) Subtract in the order specified below from the pounds of skim milk remaining in Class II and Class III, in sequence beginning with Class III:

(i) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) and (7)(v) of this section for which the handler requests a classifi-

cation other than Class I, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(ii) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i) of this section which are in excess of the pounds of skim milk determined pursuant to paragraph (a)(8)(ii) (a) through (c) of this section. Should the pounds of skim milk to be subtracted from Class II and Class III combined exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount;

(a) Multiply by 1.25 the sum of the pounds of skim milk remaining in Class I at this allocation step at all pool plants if the handler (excluding any duplication of Class I utilization resulting from reported Class I transfers between pool plants of the handler);

(b) Subtract from the above result the sum of the pounds of skim milk in receipts at all pool plants of the handler of producer milk, fluid milk products from pool plants of other handlers, and bulk fluid milk products from other order plants that were not subtracted pursuant to paragraph (a)(7)(vi) of this section; and

(c) Multiply any plus quantity resulting above by the percentage that the receipts of skim milk in fluid milk products from unregulated supply plants that remain at this pool plant is of all such receipts remaining at this allocation step at all pool plants of the handler; and

(iii) The pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) of this section, if Class II or Class III classification is requested by the operator of the other order plant and the handler, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(9) Subtract from the pounds of skim milk remaining in each class, in

series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1135.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraph (a)(5) and (7)(i) of this section;

(10) Add to the remaining pounds of skim milk in Class III the pounds of skim milk subtracted pursuant to paragraph (a)(1) of this section;

(11) Subject to the provisions of paragraph (a)(11) (i) and (ii) of this section, subtract from the pounds of skim milk remaining in each class at the plant, pro rata to the total pounds of skim milk remaining in Class I and in Class II and Class III combined at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler), with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8) (i) and (ii) of this section and that were not offset by transfers or diversions of fluid milk products to the same unregulated supply plant from which fluid milk products to be allocated at this step were received;

(i) Should the pounds of skim milk to be subtracted from Class II and Class III combined pursuant to this subparagraph exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(ii) Should the pounds of skim milk to be subtracted from Class I pursuant to this subparagraph exceed the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be

adjusted in the reverse direction by a like amount, beginning with the nearest plant at which Class I utilization is available;

(12) Subtract in the manner specified below from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) and (8)(iii) of this section.

(i) Subject to the provisions of paragraphs (a)(12) (ii), (iii), and (iv) of this section, such subtraction shall be pro rata to the pounds of skim milk in Class I and in Class II and Class III combined, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, with respect to whichever of the following quantities represents the lower proportion of Class I milk:

(a) The estimated utilization of skim milk of all handlers in each class as announced for the month pursuant to § 1135.45(a); or

(b) The total pounds of skim milk remaining in each class at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler);

(ii) Should the proration pursuant to paragraph (a)(12)(i) of this section result in the total pounds of skim milk at all pool plants of the handler that are to be subtracted at this allocation step from Class II and Class III combined exceeding the pounds of skim milk remaining in Class II and Class III at all such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which such other source milk was received;

(iii) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12) (i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class II and Class III combined that exceeds the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation

step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(iv) Except as provided in paragraph (a)(12)(ii) of this section, should the computation pursuant to paragraph (a)(12) (i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class I that exceeds the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount beginning with the nearest plant at which Class I utilization is available;

(13) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products and bulk fluid cream products from another pool plant according to the classification of such products pursuant to § 1135.42(a); and

(14) If the total pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) The quantity of producer milk in each class shall be the combined pounds of skim milk and butterfat remaining in each class after the computations pursuant to paragraph (a)(14) of this section and the corresponding step of paragraph (b) of this section.

§ 1135.45 Market administrator's reports and announcements concerning classification.

The market administrator shall make the following reports and announcements concerning classification:

(a) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1135.44(a)(12) and the corresponding step of § 1135.44(b), estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose.

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from another order plant, the class to which such receipts are allocated pursuant to § 1135.44 on the basis of such report, and, thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

(c) Furnish to each handler operating a pool plant who has shipped fluid milk products or bulk fluid cream products to another order plant the class to which such shipments were allocated by the market administrator of the other order on the basis of the report by the receiving handler, and, as necessary, any changes in such allocation arising from the verification of such report.

(d) On or before the 12th day after the end of each month, report to each cooperative association that so requests the amount and class utilization of producer milk delivered by members of such cooperative association to each handler receiving such milk. For the purpose of this report, the milk so received shall be prorated to each class in accordance with the total utilization of producer milk by such handler.

CLASS PRICES

§ 1135.50 Class prices.

The class prices for the month per hundredweight of milk shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus \$1.75.

(b) *Class II price.* The Class II price shall be the basic formula price for the month plus 10 cents.

(c) *Class III price.* The Class III price shall be the basic formula price for the month.

§ 1135.51 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A bulk butter per pound at Chicago, as reported by the Department for the month.

§ 1135.52 [Reserved]

§ 1135.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month:

(a) The Class I price for the following month.

(b) The Class II and Class III prices for the preceding month.

§ 1135.54 Equivalent price.

If for any reason a price or pricing constituent required by this part for computing class prices or for other purposes is not available as prescribed in this part, the market administrator shall use a price or pricing constituent determined by the Secretary to be equivalent to the price or pricing constituent that is required.

§ 1135.55 [Reserved]

UNIFORM PRICE

§ 1135.60 Handler's value of milk for computing uniform price.

For the purpose of computing the uniform price, the market administrator shall determine for each month the value of milk of each handler with respect to each of his pool plants and of each handler described in § 1135.9 (b) and (c) as follows:

(a) Multiply the pounds of producer milk in each class as determined pursuant to § 1135.44 by the applicable class prices and add the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of overage subtracted from each class pursuant to § 1135.44(a)(14) and the corresponding step of § 1135.44(b) by the applicable class prices;

(c) Add the amounts computed pursuant to paragraph (c)(1) and (2) of this section;

(1) Multiply the difference between the Class III price for the preceding month and the Class I price for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1135.44(a)(9) and the corresponding step of § 1135.44(b);

(2) Multiply the difference between the Class III price for the preceding month and the Class II price for the current month by the hundredweight of skim milk and butterfat subtracted from Class II pursuant to § 1135.44(a)(9) and the corresponding step of § 1135.44(b);

(d) Add the amount obtained by multiplying the difference between the Class I price and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1135.44(a)(7)(i) through (iv) and (vii) and the corresponding step of § 1135.44(b), exclud-

ing receipts of bulk fluid cream products from another order plant;

(e) Add the amount obtained by multiplying the difference between the Class I price and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1135.44(a)(7)(v) and (vi) and the corresponding step of § 1135.44(b); and

(f) Add the amount obtained by multiplying the Class I price by the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1135.44(a)(11) and the corresponding step of § 1135.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order.

§ 1135.61 Computation of uniform price.

For each month the market administrator shall compute the uniform price per hundredweight of milk of 3.5 percent butterfat content received from producers as follows:

(a) Combine into one total the values computed pursuant to § 1135.60 for all handlers who filed reports prescribed by § 1135.30 for the month and who made the payments pursuant to § 1135.71 for the preceding month;

(b) Subtract, if the average butterfat content of the milk specified in paragraph (a) of this section is more than 3.5 percent, or add, if such butterfat content is less than 3.5 percent, an amount computed by multiplying the amount by which the average butterfat content of such milk varies from 3.5 percent by the butterfat differential computed pursuant to § 1135.74 and multiplying the result by the total hundredweight of such milk;

(c) Add an amount equal to not less than one-half the unobligated balance in the producer-settlement fund;

(d) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1135.60(f); and

(e) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "uniform price."

§ 1135.62 Announcement of uniform price and producer butterfat differential.

On or before the 12th day after the end of each month the market administrator shall announce publicly the

uniform price and producer butterfat differential for such month.

PAYMENTS FOR MILK

§ 1135.70 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit the appropriate payments made by handlers pursuant to §§ 1135.71, 1135.76, and 1135.77, and out of which he shall make the appropriate payments pursuant to §§ 1135.73 and 1135.77. Payments due to a person from the fund shall be offset by payments due to the fund from such person.

§ 1135.71 Payments to market administrator.

(a) On or before the 25th day of the month, each handler shall pay to the market administrator for deposit into the producer-settlement fund an amount determined by multiplying the hundredweight of producer milk received by him (excluding his own farm production) during the first 15 days of such month by the Class III price for the preceding month.

(b) On or before the 14th day after the end of the month, each handler shall pay the market administrator an amount equal to his net pool obligation computed pursuant to § 1135.60, less:

(1) Payments made pursuant to paragraph (a) of this section for such month and the value of the handler's own farm production (based upon the uniform price adjusted pursuant to §§ 1135.74 and 1135.75) received at such handler's plant during the month.

(2) An amount computed by multiplying the inform price by the hundredweight of other source milk for which a value is computed pursuant to § 1135.60(f); and

(3) Proper deductions, charges, or other reimbursement in favor of the handler authorized in writing by producers from whom such handler received milk.

§ 1135.72 [Reserved]

§ 1135.73 Payments to producers and to cooperative associations.

(a) On or before the last day of each month, the market administrator shall make payment, subject to paragraph (c) of this section, to each producer for milk (except the own farm production of a handler) received from such producer during the first 15 days of such month by handlers from whom the appropriate payments have been received pursuant to § 1135.71(a) at not less than the Class III price per hundredweight for the preceding month;

(b) On or before the 19th day after the end of each month, the market ad-

ministrator shall make payment, subject to paragraph (c) of this section, to each producer for milk (except the own farm production of a handler) for which credit is allowed pursuant to § 1135.71(b)(1) received from such producer during the month by handlers from whom the appropriate payments have been received pursuant to § 1135.71(b) at the uniform price per hundredweight as adjusted pursuant to § 1135.74, less:

(1) Payments made pursuant to paragraph (a) of this section for such month;

(2) Deductions for marketing services pursuant to § 1135.86;

(3) Other proper deductions authorized by such producer in writing.

(c) In making payments to producers pursuant to paragraphs (a) and (b) of this section, the market administrator shall pay on or before the second day prior to the date specified in such paragraph to each cooperative association for all producers who market their milk through the cooperative association and who are certified to the market administrator by the cooperative association as having authorized the cooperative association to receive such payment in amount equal to the sum of the individual payments otherwise payable to such producers pursuant to paragraphs (a) and (b) of this section;

(d) If the market administrator does not receive the full payment required of a handler pursuant to § 1135.71, he shall reduce uniformly per hundredweight his payments to producers and/or cooperative associations for milk received by such handler by a total amount not in excess of the amount due from such handler. The market administrator shall complete such payments on or before the next date for making final payments pursuant to this section following the date on which the remaining payments is received from such handler; and

(e) If the unobligated balance in the producer-settlement fund is insufficient to make all payments pursuant to this section except those payments due producers and/or cooperative associations as described in paragraph (d) of this section, the market administrator shall reduce uniformly per hundredweight such payments and shall complete such payments on or before the next date on which the funds become available.

§ 1135.74 Producer butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth of one percent variation from 3.5 percent by a butterfat differential rounded to the nearest one-tenth cent, which shall be 0.115 times the simple

average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month.

§ 1135.75 [Reserved]

§ 1135.76 Payments by handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay on or before the 25th day after the end of the month to the market administrator for the producer-settlement fund the amount computed pursuant to paragraph (a) of this section. If the handler submits pursuant to §§ 1135.30(b) and 1135.31(c) the information necessary for making the computations, such handler may elect to pay in lieu of such payment the amount computed pursuant to paragraph (b) of this section:

(a) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the pounds of route disposition in the marketing area from the partially regulated distributing plant;

(2) Subtract the pounds of fluid milk products received at the partially regulated distributing plant:

(i) As Class I milk from pool plants and other order plants, except that subtracted under a similar provision of another Federal milk order; and

(ii) From another nonpool plant that is not an other order plant to the extent that an equivalent amount of fluid milk products disposed of to such nonpool plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract the pounds of reconstituted skim milk in route disposition in the marketing area from the partially regulated distributing plant;

(4) Multiply the remaining pounds by the difference between the Class I price and the uniform price; and

(5) Add the amount obtained from multiplying the pounds of reconstituted skim milk specified in paragraph (a)(3) of this section by the difference between the Class I price and the Class III price.

(b) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the value that would have been computed pursuant to § 1135.60 for the partially regulated distributing plant if the plant had been a pool plant, subject to the following computations:

(i) Fluid milk products and bulk fluid cream products received at the

partially regulated distributing plant from a pool plant or an other order plant shall be allocated at the partially regulated distributing plant to the same class in which such products were classified at the fully regulated plant;

(ii) Fluid milk products and bulk fluid cream products transferred from the partially regulated distributing plant to a pool plant or an other order plant shall be classified at the partially regulated distributing plant in the class to which allocated at the fully regulated plant. Such transfers shall be allocated to the extent possible to those receipts at the partially regulated distributing plant from pool plants and other order plants that are classified in the corresponding class pursuant to paragraph (b)(1)(i) of this section. Any such transfers remaining after the above allocation which are classified in Class I and for which a value is computed for the handler operating the partially regulated distributing plant pursuant to § 1135.60 shall be priced at the uniform price (or at the weighted average price if such is provided) of the respective order regulating the handling of milk at the transferee-plant, with such uniform price adjusted to the location of the nonpool plant (but not to be less than the lowest class price of the respective order), except that transfers of reconstituted skim milk in filled milk shall be priced at the lowest class price of the respective order; and

(iii) If the operator of the partially regulated distributing plant so requests, the value of milk determined pursuant to § 1135.60 for such handler shall include, in lieu of the value of other source milk specified in § 1135.60(f) less than the value of such other source milk specified in § 1135.71(b)(2), a value of milk determined pursuant to § 1135.60 for each nonpool plant that is not an other order plant which serves as a supply plant for such partially regulated distributing plant by making shipments to the partially regulated distributing plant during the month equivalent to the requirements of § 1135.7(b), subject to the following conditions:

(a) The operator of the partially regulated distributing plant submits with his reports filed pursuant to §§ 1135.30(b) and 1135.31(c) similar reports for each such nonpool supply plant;

(b) The operator of such nonpool supply plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for verification purposes; and

(c) The value of milk determined pursuant to § 1135.60 for such nonpool supply plant shall be determined in

the same manner prescribed for computing the obligation of such partially regulated distributing plant; and

(2) From the partially regulated distributing plant's value of milk computed pursuant to paragraph (b)(1) of this section, subtract:

(i) The gross payments by the operator of such partially regulated distributing plant for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated;

(ii) If paragraph (b)(1)(iii) of this section applies, the gross payments by the operator of such nonpool supply plant for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated; and

(iii) The payments by the operator of the partially regulated distributing plant to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant and like payments by the operator of the nonpool supply plant if paragraph (b)(1)(iii) of this section applies.

§ 1135.77 Adjustment of accounts.

Whenever audit by the market administrator of any handler's reports, books, records, or accounts or other verification discloses errors resulting in money due the market administrator from such handler or due such handler from the market administrator, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made on or before the next date for making payments as set forth in the provisions under which such error occurred.

§ 1135.78 Charges on overdue accounts.

Any unpaid obligation pursuant to §§ 1135.71, 1135.76, and 1135.77 shall be increased three-fourths of 1 percent each month beginning with the third day following the date such obligation was payable under the order. Any remaining amount due shall be increased at the same rate on the corresponding day of each month thereafter until paid. The amounts payable pursuant to this section shall be computed monthly on each unpaid obligation, and shall include any unpaid charges previously made pursuant to this section. For the purpose of this section any obligation that was determined at a date later than prescribed by the order because of a handler's failure to submit a report to the market administrator when due, shall be considered to have been payable by the date it would have been due if the report had been filed when due.

ADMINISTRATIVE ASSESSMENT AND
MARKETING SERVICE DEDUCTION

§ 1135.85 Assessment for order administration.

As his pro rata share of the expenses of administration of the order, each handler shall pay to the market administrator on or before the 14th day after the end of the month 5 cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to:

- (a) Producer milk (including such handler's own production);
- (b) Other source milk allocated to Class I pursuant to § 1135.44(a) (7) and (11) and the corresponding steps of § 1135.44(b), except such other source milk that is excluded from the computations pursuant to § 1135.60(d) and (f); and
- (c) Route disposition in the marketing area from a partially regulated distributing plant that exceeds the skim milk and butterfat subtracted pursuant to § 1135.76(a)(2).

§ 1135.86 Deduction for marketing services.

(a) The market administrator, in making payments to each producer pursuant to § 1135.73, shall deduct 8 cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to the milk (except a handler's own farm production) of such producer for whom the marketing services set forth in paragraph (b) of this section are not being performed by a cooperative association as determined by the market administrator.

(b) The moneys deducted pursuant to paragraph (a) of this section shall be used by the market administrator to verify or establish weights, samples, and tests of producer milk and to provide producers with market information. Such services shall be performed by the market administrator or by an agent engaged by and responsible for him.

PART 1000—GENERAL PROVISIONS OF
FEDERAL MILK MARKETING ORDERS

§ 1000.1 Scope and purpose of Part 1000.

This part sets forth certain terms, definitions, and provisions which shall be common to and part of each Federal milk marketing order except as specifically defined otherwise, or modified, or otherwise provided, in an individual order.

§ 1000.2 Definitions.

The following terms shall have the following meanings as used in the order:

(a) *Act*. "Act" means Public Act No. 10 73d Congress, as amended and as reenacted and amended by the Agri-

cultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*).

(b) *Order*. "Order" means the applicable part of Title 7 of the Code of Federal Regulations issued pursuant to section 8c of the Act as a Federal milk marketing order (as amended).

(c) *Department*. "Department" means the U.S. Department of Agriculture.

(d) *Secretary*. "Secretary" means the Secretary of Agriculture of the United States or any officer or employee of the Department to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated to act in his stead.

(e) *Person*. "Person" means any individual, partnership, corporation, association, or other business unit.

§ 1000.3 Market Administrator.

(a) *Designation*. The agency for the administration of the order shall be a market administrator selected by the Secretary and subject to removal at the Secretary's discretion. The market administrator shall be entitled to compensation determined by the Secretary.

(b) *Powers*. The market administrator shall have the following powers with respect to each order under his administration.

- (1) Administer the order in accordance with its terms and provisions;
- (2) Make rules and regulations to effectuate the terms and provisions of the order;
- (3) Receive, investigate, and report complaints of violations to the Secretary; and
- (4) Recommend amendments to the Secretary.

(c) *Duties*. The market administrator shall perform all the duties necessary to administer the terms and provisions of each order under his administration, including, but not limited to, the following:

- (1) Execute and deliver to the Secretary a bond covering himself and a bond covering any person designated by the Secretary to act in his stead. The respective bond shall be:
 - (i) Delivered within 45 days after he (or the acting market administrator) enters upon his duties.
 - (ii) Effective as of the date he (or the acting market administrator) enters upon his duties;
 - (iii) Conditioned upon the faithful performance of the market administrator's duties; and
 - (iv) In an amount and with surety thereon satisfactory to the Secretary.
- (2) Employ and fix the compensation of persons necessary to enable him to exercise his powers and perform his duties;
- (3) Pay out of funds provided by the administrative assessment, except expenses associated with functions for

which the order provides a separate charge, all expenses necessarily incurred in the maintenance and functioning of his office and in the performance of his duties, including his own bond and compensation and the necessary bonds of his employees;

(4) Keep records which will clearly reflect the transactions provided for in the order, and upon request by the Secretary surrender the records to his successor or such other person as the Secretary may designate;

(5) Furnish information and reports requested by the Secretary and submit his records to examination by the Secretary;

(6) Announce publicly at his discretion, unless otherwise directed by the Secretary, by such means as he deems appropriate, the name of any handler who, after the date upon which he is required to perform such act, has not:

- (i) Made reports required by the order;
- (ii) Made payments required by the order; or
- (iii) Made available records and facilities as required pursuant to § 1000.5;

(7) Prescribe reports required of each handler under the order. Verify such reports and the payments required by the order by examining records (including such papers as copies of income tax reports, fiscal and product accounts, correspondence, contracts, documents or memoranda of the handler, and the records of any other persons that are relevant to the handler's obligation under the order), by examining such handler's milk handling facilities; and by such other investigation as the market administrator deems necessary for the purpose of ascertaining the correctness of any report or any obligation under the order. Reclassify skim milk and butterfat received by any handler if such examination and investigation discloses that the original classification was incorrect.

(8) Furnish each regulated handler a written statement of such handler's accounts with the market administrator promptly each month. Furnish a corrected statement to such handler if verification discloses that the original statement was incorrect; and

(9) Prepare and disseminate publicly for the benefit of producers, handlers, and consumers such statistics and other information concerning operation of the order and facts relevant to the provisions thereof (or proposed provisions) as do not reveal confidential information.

§ 1000.4 Continuity and separability of provisions.

(a) *Effective time*. The provisions of the order or any amendment to the order shall become effective at such

time as the Secretary may declare and shall continue in force until suspended or terminated.

(b) *Suspension or termination.* The Secretary shall suspend or terminate any or all of the provisions of the order whenever he finds that such provision(s) obstructs or does not tend to effectuate the declared policy of the Act. The order shall terminate whenever the provisions of the Act authorizing it cease to be in effect.

(c) *Continuing obligations.* If upon the suspension or termination of any or all of the provisions of the order, there are any obligations arising under the order, the final accrual or ascertainment of which requires acts by any handler, by the market administrator, or by any other person, the power and duty to perform such further acts shall continue notwithstanding such suspension or termination.

(d) *Liquidation.* (1) Upon the suspension or termination of any or all provisions of the order, the market administrator, or such other liquidating agent designated by the Secretary shall if so directed by the Secretary liquidate the business of the market administrator's office, dispose of all property in his possession or control, including accounts receivable and execute and deliver all assignments or other instruments necessary or appropriate to effectuate any such disposition; and

(2) If a liquidating agent is so designated, all assets and records of the market administrator shall be transferred promptly to such liquidating agent. If, upon such liquidation, the funds on hand exceed the amounts required to pay outstanding obligations of the office of the market administrator and to pay necessary expenses of liquidation and distribution, such excess shall be distributed to contributing handlers and producers in an equitable manner.

(e) *Separability of provisions.* If any provision of the order or its application to any person or circumstances is held invalid, the application of such provision and of the remaining provisions of the order to other persons or circumstances shall not be affected thereby.

§ 1000.5 Handler responsibility for records and facilities.

Each handler shall maintain and retain records of his operations and make such records and his facilities available to the market administrator. If adequate records of a handler, or of any other persons, that are relevant to the obligation of such handler are not maintained and made available, any skim milk and butterfat required to be reported by such handler for which adequate records are not available shall not be considered accounted for

or established as used in a class other than the highest priced class.

(a) *Records to be maintained.* (1) Each handler shall maintain records of his operations (including, but not limited to, records of purchases, sales, processing, packaging, and disposition) as are necessary to verify whether such handler has any obligation under the order, and if so, the amount of such obligation. Such records shall be such as to establish for each plant or other receiving point for each month:

(i) The quantities of skim milk and butterfat contained in, or represented by, products received in any form, including inventories on hand at the beginning of the month, according to form, time, and source of each receipt;

(ii) The utilization of all skim milk and butterfat showing the respective quantities of such skim milk and butterfat in each form disposed of or on hand at the end of the month; and

(iii) Payments to producers, dairy farmers and cooperative associations, including the amount and nature of any deductions and the disbursement of money so deducted.

(2) Each handler shall keep such other specific records as the market administrator deems necessary to verify or establish such handler's obligation under the order.

(b) *Availability of records and facilities.* Each handler shall make available all records pertaining to such handler's operations and all facilities the market administrator finds are necessary for such market administrator to verify the information required to be reported by the order and/or to ascertain such handler's reporting, monetary or other obligation under the order. Each handler shall permit the market administrator to weigh, sample, and test milk and milk products and observe plant operations and equipment and make available to the market administrator such facilities as are necessary to carry out his duties.

(c) *Retention of records.* All records required under the order to be made available to the market administrator shall be retained by the handler for a period of 3 years to begin at the end of the month to which such records pertain. If, within such 3-year period, the market administrator notifies the handler in writing that the retention of such records, or of specified records, is necessary in connection with a proceeding under section 8c(15)(A) of the Act or a court action specified in such notice, the handler shall retain such records, or specified records, until further written notification from the market administrator. The market administrator shall give further written notification to the handler promptly upon the termination of the litigation or when the records are no longer necessary in connection therewith.

§ 1000.6 Termination of obligations.

The provisions of this section shall apply to any obligation under the order for the payment of money;

(a) Except as provided in paragraphs (b) and (c) of this section, the obligation of any handler to pay money required to be paid under the terms of the order shall terminate 2 years after the last day of the month during which the market administrator receives the handler's report of receipts and utilization on which such obligation is based, unless within such 2-year period, the market administrator notifies the handler in writing that such money is due and payable. Service of such written notice shall be complete upon mailing to the handler's last known address and it shall contain but need not be limited to the following information:

(1) The amount of the obligation;

(2) The month(s) on which such obligation is based; and

(3) If the obligation is payable to one or more producers or to a cooperative association (except an obligation to be prorated to producers under an individual handler pool), the name of such producer(s) or such cooperative association, or if the obligation is payable to the market administrator, the account for which it is to be paid;

(b) If a handler fails or refuses, with respect to any obligation under the order, to make available to the market administrator all records required by the order to be made available, the market administrator may notify the handler in writing, within the 2-year period provided for in paragraph (a) of this section, of such failure or refusal. If the market administrator so notifies a handler, the said 2-year period with respect to such obligation shall not begin to run until the first day of the month following the month during which all such records pertaining to such obligation are made available to the market administrator;

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, a handler's obligation under the order to pay money shall not be terminated with respect to any transaction involving fraud or willful concealment of a fact, material to the obligation, on the part of the handler against whom the obligation is sought to be imposed; and

(d) Unless the handler files a petition pursuant to section 8c(15)(A) of the Act and the applicable rules and regulations (7 CFR Part 900.50 *et seq.*) within the applicable 2-year period indicated below, the obligation of the market administrator.

(1) To pay a handler any money which such handler claims to be due him under the terms of the order shall terminate 2 years after the end of the month during which the skim milk

and butterfat involved in the claim were received; or

(2) To refund any payment made by a handler (including a deduction or offset by the market administrator) shall terminate 2 years after the end of the month during which payment was made by the handler.

PROPOSED BY KRAFT, INC.

PROPOSAL NO. 2

Revise the provisions of the proposed order as set forth under *Proposal 1*, as follows:

A. Section 1135.6, *Supply plant* should read:

§ 1135.6 *Supply plant.*

"Supply plant" means a plant from which a fluid milk product acceptable to a duly constituted regulatory agency for fluid consumption, or filled milk, is transferred or diverted during the month to a pool distributing plant.

B. Paragraphs (a) and (b) of § 1135.7, *Pool plant*, should read:

§ 1135.7 *Pool plant.*

(a) A distributing plant that during the month has:

(1) Route disposition, except filled milk, representing not less than 50 percent of its total receipts of Grade A fluid milk products (including milk diverted from such plant pursuant to § 1135.13); and

(2) Route disposition, except filled milk, in the marketing area representing not less than 10 percent of such receipts.

(b) A supply plant from which during the month not less than 50 percent of its Grade A milk receipts from dairy farmers (including milk diverted from such plant pursuant to § 1135.13) is shipped to pool distributing plants pursuant to paragraph (a) of this section as fluid milk products, except filled milk; and any supply plant that has qualified as a pool plant in each of the immediately preceding months of August through February shall be a pool plant in each of the next following months of March through July except that such plant will not be a pool plant for any month during such March through July period for which the operator of the plant files with the market administrator prior to the first day of such month a written request for nonpool status for such month.

(i) A cooperative association that operates a supply plant may include as qualifying shipments its deliveries to pool distributing plants directly from farms of producers.

(ii) A proprietary handler may include as qualifying shipments milk di-

verted pursuant to § 1135.13(c) to pool distributing plants.

C. Paragraph (a) of § 1135.12, *Producer*, should read:

§ 1135.12 *Producer.*

(a) Except as provided in paragraph (b) of this section "producer" means any person:

(1) Who produces milk in compliance with the fluid milk inspection requirements of a duly constituted regulatory agency; and

(2) Whose milk is received at a pool plant or diverted from a pool plant pursuant to § 1135.13.

D. Section 1135.13, *Producer milk*, should read:

§ 1135.13 *Producer milk.*

"Producer milk" means the skim milk and butterfat contained in milk of a producer that is:

(a) Received at a pool plant directly from such producer by the operator of the plant;

(b) Received by a handler described in § 1135.9(c); or

(c) Diverted by the operator of a pool plant, or a cooperative association from a pool plant to another pool plant, or to a nonpool plant that is not a producer-handler plant, subject in the case of diversions to nonpool plants, to the following conditions:

(1) In any month of March through July, such milk may be diverted on any number of days.

(2) In any month of August through February not less than one day's production of the producer whose milk is diverted is physically received at a pool plant during the month.

(3) In any month of August through February, the total quantity of milk so diverted during the month to nonpool plants by a cooperative association shall not exceed 50 percent of the producer milk that the cooperative association caused to be delivered to or diverted from pool plants during the month;

(4) In any month of August through February the operator of a pool plant that is not a cooperative association may divert any milk that is not under the control of a cooperative association that diverts milk during the month pursuant to paragraph (c)(3) of this section. The total quantity of milk so diverted during the month to nonpool plants shall not exceed 50 percent of the producer milk physically received at such plant and of the milk diverted from such plant that is eligible to be diverted by the plant operator.

(5) To the extent that it would result in nonpool status for the pool plant from which diverted, milk diverted for the account of a cooperative association from the pool plant of another handler shall not be producer milk;

(6) Any milk diverted in excess of the limits prescribed in paragraph (c) (3) and (4) of this section shall not be producer milk. The diverting handler may designate the dairy farmers whose diverted milk will not be producer milk, otherwise the milk last diverted, in lots of an entire days' production, shall be excluded first in determining which milk should not be producer milk; and

(7) Diverted milk shall be priced at the location of the plant to which diverted.

§ 1135.41 [Amended]

E. In § 1135.41(b)(2), replace the words "except that" with the words "and in milk diverted to such plant from another pool plant, except that in either case".

§ 1135.42 [Amended]

F. In § 1135.42(a), revise the heading of the introductory paragraph "Transfers to pool plants", to "Transfers and diversions to pool plants"; and add the words "or diverted" after the word "transferred", to make the first sentence of said introductory paragraph read, in part, "Skim milk or butterfat transferred or diverted".

G. In § 1135.42(a)(2), add the phrase "or divertor plant", to make the opening phrase in said paragraph read "(2) If the transferor plant or divertor plant".

H. In § 1135.42(a)(3), strike the opening phrase "If the transferor-handler" and replace it with the phrase "If the transferor-handler or the divertor-handler".

I. In § 1135.42(a)(3), conclude the subparagraph with the words "or the divertee plant".

J. Section 1135.42(c)(1) should read: "As Class I milk, if transferred or diverted in the form of a fluid milk product; and."

PROPOSAL NO. 3

A. Provide in the order for direct payments to producers and cooperative associations by the handlers who purchase milk from them, without the intervention of the market administrator as proposed in Proposal No. 1 whereby handlers would make payments for milk to the market administrator, who, in turn, would pay the producers and cooperative associations.

B. Should the final order, contrary to the position stated in A above, provide for such intervention of the market administrator in said payment

process, the order should also provide in § 1135.73 the following:

In making payments to producers pursuant to paragraphs (a) and (b) of § 1135.73, the market administrator, on or before the day prior to the dates specified in said paragraphs, shall deliver payment to each handler who so requests for milk received by the handler from producers for whom a cooperative association is not collecting payments pursuant to paragraph (c) of § 1135.73 an amount equal to the sum of individual payments otherwise due such producers pursuant to paragraphs (a) and (b) of § 1135.73. The handler shall then pay the individual producers the amounts due them by the respective dates specified in paragraphs (a) and (b) of § 1135.73.

Copies of this notice may be procured from the Hearing Clerk, Room 1077, South Building, United States Department of Agriculture, Washington, D.C. 20250, or may be there inspected.

From the time that a hearing notice is issued until the issuance of a final decision in a proceeding, Department employees involved in the decisional process are prohibited from discussing the merits of the hearing issues on an ex parte basis with any person having an interest in the proceeding. For this particular proceeding, the prohibition applies to employees in the following organizational units:

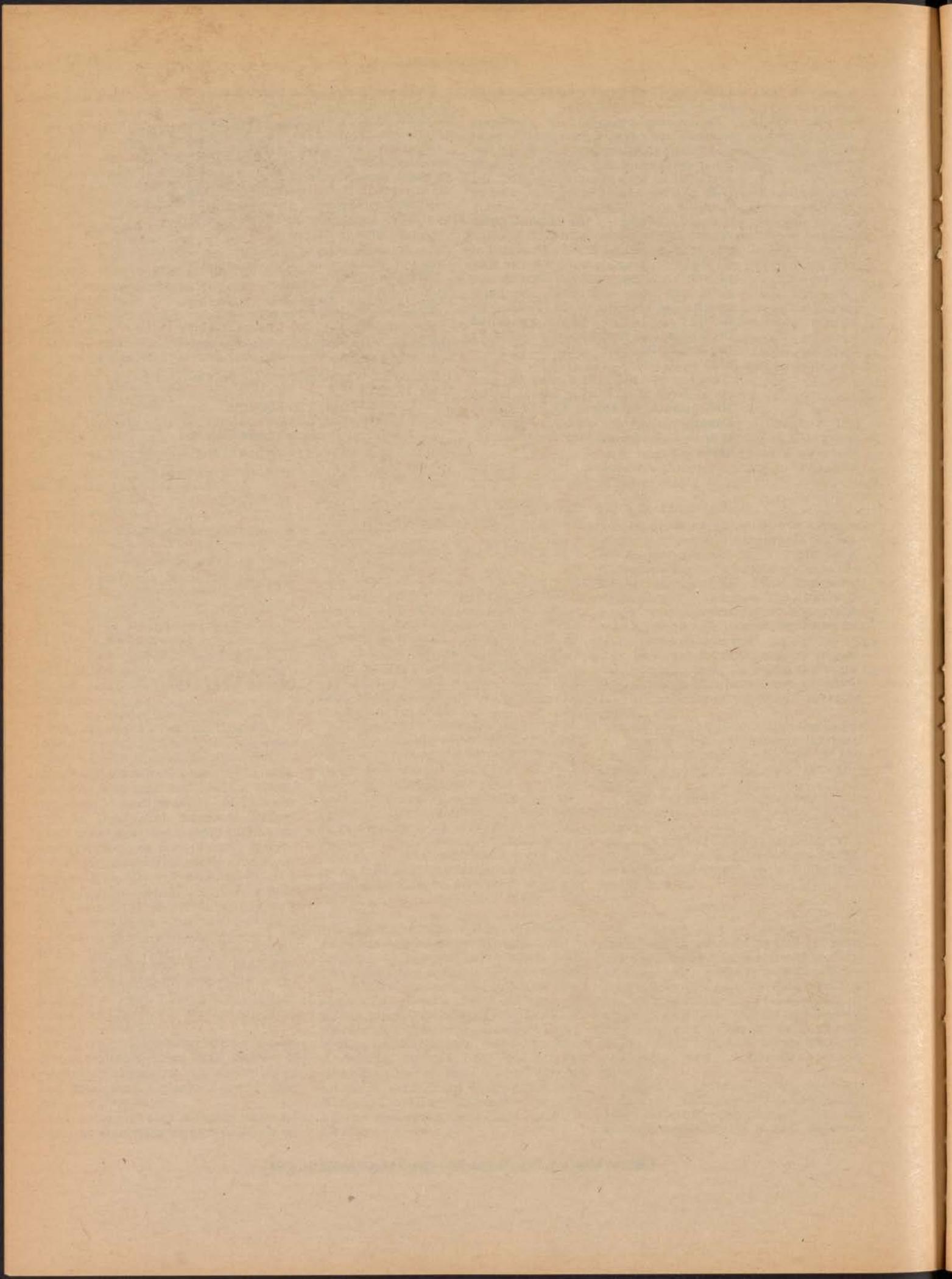
Office of the Secretary of Agriculture.
Office of the Administrator, Agricultural Marketing Service.
Office of the General Counsel.
Dairy Division, Agricultural Marketing Service (Washington office only).

Procedural matters are not subject to the above prohibition and may be discussed at any time.

Signed at Washington, D.C., on October 19, 1978.

WILLIAM T. MANLEY,
Deputy Administrator,
Marketing Program Operations.

[FR Doc. 78-29966 Filed 10-23-78; 8:45 am]



**Register
Federal Order**

TUESDAY, OCTOBER 24, 1978

PART VII



**DEPARTMENT OF
HEALTH,
EDUCATION, AND
WELFARE**

**Health Care Financing
Administration**



**FEDERAL HEALTH
INSURANCE FOR THE
AGED AND DISABLED**

**Coverage of Dialysis Supplies,
Equipment, and Support Services**

[4110-35-M]

Title 42—Public Health

CHAPTER IV—HEALTH CARE FINANCING ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

Coverage of Dialysis Supplies, Equipment, and Support Services

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

ACTION: Final rule with comment period.

SUMMARY: These amendments change existing medicare regulations governing coverage of end-stage renal disease (ESRD) services. The changes are required to implement provisions of the End-Stage Renal Disease Program Amendments of 1978 (Pub. L. 95-292) which extend coverage to home dialysis support services and services furnished in connection with kidney donations, provide for 100-percent reimbursement of kidney donor expenses, and expand coverage of home dialysis supplies and equipment. The intent of these amendments is to remove program disincentives to the use of home dialysis and transplantation, the most economical forms of ESRD care.

DATES: These regulations are effective on October 1, 1978. However, consideration will be given to written comments or suggestions received by December 26, 1978, with a view to revision of the regulations, if necessary.

ADDRESSES: Address comments to: Administrator, Health Care Financing Administration, Department of Health, Education, and Welfare, P.O. Box 2372, Washington, D.C. 20013.

In commenting, please refer to MAB-79. Agencies and organizations are requested to submit comments in duplicate. Comments will be available for public inspection, beginning approximately 2 weeks from today, in room 5231 of the Department's offices at 330 C Street SW., Washington, D.C., on Monday through Friday of each week, from 8:30 a.m. to 5 p.m., 202-245-0950.

FOR FURTHER INFORMATION CONTACT:

Harold Fishman, Medicare Bureau, Room 181, East High Rise, 6401 Security Boulevard, Baltimore, Md. 21235, 301-594-9764.

SUPPLEMENTARY INFORMATION: The Social Security Amendments of

1972 (Pub. L. 92-603) provided medicare coverage for kidney transplant and dialysis services furnished to entitled individuals suffering from end-stage renal disease. Congress studied the operation of the ESRD program since its inception in 1973 and determined that, although the program was successful in relieving beneficiaries of most of the catastrophic costs of ESRD treatment, a number of problems threatened its continued stability and effectiveness. The End-Stage Renal Disease Program Amendments of 1978 were enacted to alleviate these problems. The amendments specifically encourage the use of home dialysis and transplantation, the least expensive forms of ESRD treatment, by eliminating program disincentives to their use.

Recognizing that home dialysis is the least costly form of dialysis, Congress added several provisions modifying and extending coverage of home dialysis services. Prior to the amendments, for example, not all supplies necessary for home dialysis were covered by medicare. Thus, home dialysis patients often incurred greater out-of-pocket expenses for dialysis than patients receiving institutional care because they had to pay for disposable supplies such as syringes, sterile drapes, and topical anesthetics. The amendments added sections 1861(s)(2)(F), 1881(b)(1)(B), and 1881(b)(7) to the act, providing medicare coverage of these supplies.

The 1978 amendments also added section 1881(e) to the act, which modifies coverage provisions with respect to home dialysis equipment to create incentives for the purchase of such equipment. Under existing law, medicare paid beneficiaries (or their assignees) 80 percent of the rental charge or purchase price of the equipment. Because the equipment is very expensive and most patients were not able to afford the large initial expense for their share in buying this equipment, few beneficiaries bought dialysis machines. The total medicare rental payments for dialysis equipment made over the life of the equipment in some cases amounted to several times its purchase price.

To solve this problem and to encourage home dialysis, the amendments authorize HCFA to pay 100 percent of the reasonable costs incurred by ESRD facilities, under agreements with HCFA, to purchase, install, maintain, and recondition dialysis equipment for medicare beneficiaries dialyzing at home.

The amendments also extend coverage to home dialysis supplies, equipment, and home dialysis support services furnished by facilities to medicare beneficiaries whose home care they supervise. Under new sections

1881(b) (4), (5), and (6) of the act, HCFA will enter into agreements with approved ESRD facilities to supply this package of services on the basis of a target reimbursement rate. These provisions are intended to improve supervision and management of home care, as well as to make this care more economical.

Finally, the amendments added section 1881(d), which makes explicit HCFA's authority to reimburse medical expenses of kidney donors. To encourage transplantation and to assure a continued supply of donor organs, the act now specifically authorizes HCFA to pay all reasonable expenses of such individuals, without regard to the usual medicare deductible, premium, and coinsurance amounts.

To implement these statutory changes in the scope of medicare coverage of end-stage renal disease services, we are amending the medicare regulations under 42 CFR part 405, subparts A, B, and I.

This is the third in a series of regulations implementing the 1978 amendments. The first regulation dealt with entitlement and the second dealt with the certification of ESRD facilities. Still to be issued are regulations dealing with reimbursement and ESRD networks.

REGULATORY CHANGES

An explanation of the changes to existing regulations follows:

1. *Coverage of kidney transplantation services.* Section 405.116 is amended to state that, beginning on September 1, 1977, medicare reimbursement for kidney transplantation surgery will be made only if the surgery is performed in a rental transplantation center approved under subpart U of the medicare regulations. This amendment conforms this section of the regulation to the existing rules for certification in subpart U. (See 45 CFR 405.2100(a).) The September 1, 1977, date is used here because that is the date on which the present regulations in subpart U became applicable to all rental transplantation centers.

2. *Payment for services furnished to kidney donors.* Pub. L. 95-292 extends medicare benefits, under both part A and part B, to individuals who are not otherwise eligible for medicare and who donate a kidney for transplant surgery. The scope of these benefits is limited to expenses incurred with respect to the kidney donation; it does not create a general entitlement to medicare benefits. The benefits cover all expenses for the evaluation and preparation of a kidney donor (or potential donor), for the donor's operation, and for postoperative recovery. Moreover, the normal medicare requirements for deductibles, coinsur-

ance, and premiums are not applicable.

We are proposing to implement this provision by amending §§ 405.116 and 405.231 to add part A and part B coverage, respectively, and by adding new §§ 405.117, 405.244-1, and 405.906 to exclude the requirements for deductibles, coinsurance, and premiums.

3. *Coverage of institutional dialysis services and supplies.* Section 405.231 is amended to specify that all services and supplies necessary to perform dialysis in approved ESRD facilities are covered as "institutional dialysis services and supplies." Until the present, most services and supplies required for dialysis in a facility setting were covered under various paragraphs of this section, including paragraph (h) covering prosthetic devices. Some services were covered by the terms of the appendix to subpart B of the regulations. However, some necessary services (such as injections and diagnostic tests) were covered only if provided "incident to a physician's service." The result was that some necessary services were not covered, or covered only under rules which were impractical in the dialysis facility setting. Pub. L. 95-292, by amending section 1861(s)(2)(F) of the Act, corrects this difficulty and this regulatory amendment implements that change.

4. *Home dialysis services, supplies, and equipment.* Section 405.231 is further amended by specifying coverage provisions for home dialysis services, supplies, and equipment. Prior to enactment of Pub. L. 95-292, this coverage was limited to purchase or rental of durable medical equipment; installation, repairs, and maintenance of such equipment; and items and supplies necessary for the effective operation of the equipment. Pursuant to Pub. L. 95-292, effective October 1, 1978, such coverage is broadened to include all disposable supplies and other supplies required for dialysis. The legislation also extends coverage to home dialysis support services furnished by an ESRD facility, including periodic monitoring of the patient's home adaptation, emergency visits by facility personnel, testing and treatment of water, and ordering of supplies. Finally, the legislation provides for coverage of services of trained home aides, where necessary, if furnished by a facility which has an agreement with HCFA to receive target rate reimbursement for home dialysis supplies, equipment, and support services. The specific provisions in the agreement which a facility must have in order to receive target rate reimbursement will be spelled out in the next set of ESRD regulations, to be issued soon.

Section 405.250 is amended, as required under Pub. L. 95-292, to provide that reimbursement will be made

for home support services only if they are provided in accordance with a written plan which is periodically reviewed by a medical team that includes the patient's physician. This conforms the regulation to section 1881(b)(8)(A) of the Act.

5. *Routine dialysis monitoring tests.* Section 405.232 is amended to provide for coverage of routine dialysis monitoring tests performed by an ESRD facility, even though the facility does not qualify as an independent laboratory under the medicare program. This change is made to conform the coverage regulations on diagnostic laboratory tests to requirements concerning certification of ESRD facilities (42 CFR 405.2163(b)) which state that certain specified tests can be provided by an ESRD facility, even if it does not meet the requirements of an independent laboratory as defined in subpart M of 42 CFR part 405. (If the ESRD facility and the laboratory are part of a hospital, the laboratory would be subject to the requirements of 42 CFR 405.1028.)

6. *Waiver of cost-sharing.* As required by Pub. L. 95-292, § 405.240 is amended to provide for waiver of medicare deductible and coinsurance amounts for the purchase, installation, and maintenance of home dialysis equipment furnished by ESRD providers and facilities that have a special agreement with HCFA. The specific elements for these agreements will be specified in the next set of ESRD regulations.

7. *Elimination of appendix to subpart B.* The amendments eliminate the appendix to subpart B, which established interim ESRD policies and is no longer needed. (Prior to March 1, 1977, ESRD facilities were certified on the basis of these interim rules, which were intended to permit implementation of the ESRD program while final rules on certification were being developed.)

8. *Editorial and technical changes.* The amendments also make various editorial and technical changes, including amendment of § 405.236 to reinstate a paragraph in the definition of home health services that was inadvertently omitted from recent edition of 42 CFR Part 405.

WAIVER OF PROPOSED RULEMAKING

Pub. L. 95-292 provides that medicare payments for the renal disease services specified in that statute shall be available beginning on October 1, 1978. Because of the short period between the enactment (June 13, 1978) and the effective date of the statute, we have not been able to go through the normal process for NPRM and public participation. We have attempted, however, in the limited time available to consult as widely as possible

with persons and agencies whom we knew would be interested in this regulation.

Because we believe it important to provide rules for how these services are to be covered and reimbursed beginning October 1, we have found good cause to waive proposed rulemaking. However, we welcome comments and suggestions on this regulation.

42 CFR part 405 is amended as set forth below:

1. The table of contents is amended to add new §§ 405.117, 405.244-1, and 405.906.

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

Sec.	.	.	.	.	.
405.117	Inpatient hospital services; kidney donors.	.	.	.	.
405.244-1	Payment of supplementary medical insurance benefits; kidney donors.	.	.	.	.
405.906	Waiver of premiums of kidney donors.	.	.	.	.

2. Section 405.116 is amended by revising paragraph (g) and adding a new paragraph (h) to read as follows:

§ 405.116 Inpatient hospital services; defined.

(g) *Services in connection with kidney transplantation.* Beginning September 1, 1977, kidney transplantation surgery is covered only if performed in a renal transplantation center approved under subpart U of this part.

(h) *Services in connection with kidney donations.* Services furnished in connection with kidney donations are covered if the kidney donation is intended for an individual entitled to medicare benefits and the services are related to the evaluation or preparation of a potential or actual donor, to the donation of the kidney, or to post-operative recovery services directly related to the kidney donation.

§ 405.117 Inpatient hospital services; kidney donor services.

Notwithstanding any other provisions in this title, there are no deductible or coinsurance requirements with respect to services furnished to an individual in connection with the dona-

RULES AND REGULATIONS

tion of a kidney for transplant surgery.

4. Section 405.231 is amended by revising paragraph (g), (h), and (n) and adding new paragraphs (o), (p), and (q) to read as follows:

§ 405.231 Medical and other health services; included items and services.

Subject to the conditions, limitations, and exclusions set forth in § 405.232, the term "medical and other health services" means the following items or services:

(g) Rental or, effective January 1, 1968, purchase of durable medical equipment used in the patient's home, including iron lungs, oxygen tents, hospital beds, wheelchairs, and renal dialysis systems. For purposes of this paragraph, the term "home" does not include an institution that meets the definition of hospital in section 1861(e)(1) or skilled nursing facility in section 1861(j)(1) of the act.

(h) Prosthetic devices (other than dental) that replace all or part of an internal body organ. On or after October 30, 1972, colostomy bags and supplies directly related to colostomy care are included. (For the period before October 1, 1978, such devices include prosthetic services furnished by non-provider renal dialysis facilities.)

(n) Rural health clinic services as specified in subpart X of this part;

(o) Effective October 1, 1978, institutional dialysis services and supplies furnished in approved ESRD facilities, including all services, items, supplies, and equipment necessary to perform dialysis, routine dialysis monitoring tests specified in § 405.2163(b), routine diagnostic tests, and routine diagnostic laboratory tests;

(p) Effective October 1, 1978, home dialysis services, supplies, and equipment, as follows:

(1) *Dialysis equipment*, purchase or rental, installation, and maintenance of all equipment necessary for home dialysis, and the reconditioning of this equipment. Dialysis equipment includes (but is not limited to) artificial kidney and automated peritoneal dialysis machines, and support equipment such as blood pumps, bubble detectors, and other alarm systems.

(2) *Items and supplies required for dialysis*, including (but not limited to) dialyzers, syringes and needles, forceps, scissors, scales, sphygmomanometer with cuff and stethoscope, alcohol wipes, sterile drapes, and rubber gloves.

(3) *Home dialysis support services furnished by an ESRD facility*, including periodic monitoring of the pa-

tient's home adaptation (in accordance with a plan as required by § 405.250(c)), emergency visits by qualified provider or facility personnel, personnel costs associated with the installation and maintenance of dialysis equipment, testing and appropriate treatment of water, and ordering of supplies on an ongoing basis.

(4) *Services of trained home aides*, if furnished by a facility that has an agreement to receive target rate reimbursement under § 405.691; and

(q) Services furnished in connection with kidney donations to persons who have end-stage renal disease and are entitled to medicare benefits.

5. Section 405.232 is amended by revising the introductory sentence and paragraph (b)(1) to read as follows:

§ 405.232 Medical and other health services; conditions, limitations, and exclusions.

In addition to the general exclusions specified in subpart C of this part, the following conditions, limitations, and exclusions shall apply with respect to the "medical and other health services" specified in § 405.231:

(b) *Diagnostic tests*. For purposes of § 405.231(d): (1) (i) Except as specified in paragraph (b)(1)(ii) of this section, diagnostic laboratory tests are not "medical or other health services" if performed in a laboratory which is independent of a hospital and the attending or consulting physician's office, unless that laboratory meets the requirements set forth in subpart M of this part. For purposes of this paragraph, the term "hospital" means a hospital which meets the requirements specified in § 405.249(a)(1).

(ii) Routine dialysis monitoring tests (specified in § 405.2163(b)) are covered if they are furnished by an ESRD facility, even if the facility does not meet the requirements of subpart M of this part.

6. Section 405.236 is amended by revising the introductory sentence and reinstating and revising paragraph (g), which was inadvertently dropped from the Code of Federal Regulations, to read as follows:

§ 405.236 Home health services; items and services included.

Subject to the provisions specified in § 405.237, "home health services" means the following items and services furnished to an individual in accordance with §§ 405.234 and 405.235:

(g) Any of the items or services specified in paragraphs (a) through (f) of this section that are furnished on an outpatient basis at a hospital, skilled nursing facility, or rehabilitation center under an arrangement with the home health agency, even though the items or services could have been provided to him in his home. These items or services must be furnished at the same time that items or services which could not be readily available to him in his home are furnished to him.

7. Section 405.240 is amended by revising paragraphs (b) through (f) and adding new paragraphs (g) and (h) to read as follows:

§ 405.240 Payment of supplementary medical insurance benefits; amounts payable.

In the case of an individual who incurs expenses during his coverage period under the supplementary medical insurance plan, payment with respect to the total amount of such expenses incurred during a calendar year shall, subject to the provisions of §§ 405.243-405.246, be made as follows:

(b) Except as specified in paragraphs (g) and (h) of this section, 80 percent of the reasonable charges for medical and health services furnished by other than a participating provider of services;

(c) Except as specified in paragraphs (g) and (h) of this section, 80 percent of the reasonable cost for medical and other health services furnished by (or under arrangements made by) participating providers of services;

(d)(1) [Vacated and reserved]

(2) One hundred percent of the reasonable cost of home health services furnished by (or under arrangements made by) a participating home health agency for services furnished after December 31, 1972;

(e) [Vacated and reserved]

(f) Eighty percent of the costs payable under subpart X of this part, which are reasonable and related to the cost of furnishing rural health clinic services or which are based on other tests of reasonableness as specified by the Secretary;

(g) One hundred percent of the reasonable cost for purchase, installation, maintenance, and reconditioning for subsequent use of home dialysis equipment furnished by ESRD facilities that have an agreement with HCFA under § 405.690; and

(h) Eighty percent of the target reimbursement rate for items and services furnished by an ESRD facility under § 405.691, except for items and services that are reimbursed under an

agreement in accordance with paragraph (g) of this section.

8. A new § 405.244-1 is added, to read as follows:

§ 405.244-1 Payment of supplementary medical insurance benefits; kidney donor services.

Notwithstanding any other provisions in this title, there are no deductible or coinsurance requirements with respect to services furnished to an individual in connection with the donation of a kidney for transplant surgery.

9. Section 405.250 is amended by revising the heading and paragraphs (a) and (b), and by adding a new paragraph (c) to read as follows:

§ 405.250 Procedures for payment; medical and other health services furnished by participating provider or ESRD facility home health services.

Payment for medical and other health services (see §§ 405.230(a)(3), 405.231, and 405.232), and for home health services (see §§ 405.230(a)(4), 405.233 through 405.236), furnished by a participating provider of services is made to such provider only if:

(a) A written request for payment is filed by or on behalf of the individual to whom the services were furnished to have such payment made;

(b) A physician certifies and recertifies when required (see subpart P of this part) that:

(1) In the case of medical and other health services (except certain outpatient services specified in § 405.231 (c), (k), and (l) and institutional or home dialysis services specified in § 405.231 (o) and (p)), such services were medically required; or

* * * * *

(3) In the case of outpatient physical therapy and speech pathology services:

(iii) Such services were furnished while the individual was under the care of a physician; and

(c) In the case of home dialysis support services (see § 405.231 (p), (3) and (4)), the services are furnished in accordance with a written plan prepared and periodically reviewed by a team that includes the patient's physician and other professionals familiar with the patient's condition (see § 405.2137(b)(2)).

10. Section 405.251 is amended by revising the heading, introductory sentence, and paragraphs (a) and (b), to read as follows:

§ 405.251 Procedures for payment; medical and other health services furnished by other than a participating provider or ESRD facility.

Payment for medical and other health services furnished by a person or organization other than a participating provider of services of ESRD facility may be made to the individual who incurred such expenses, or to the person or organization that provided such services, under the following circumstances:

(a) *Payment to the individual.* Payment may be made to an individual who incurred expenses for medical and other health services furnished him by a person or organization other than a participating provider of services or ESRD facility, if:

(1) He files a written request for payment;

(2) An itemized bill (which may be receipted or unpaid) is submitted which shows in detail the services furnished; and

(3) The items or services furnished such individual are "medical and other health services" (including "emergency outpatient services," if payment cannot be made under the provisions of § 405.249 solely because the hospital furnishing such services has not elect-

ed to claim such payment) for which payment may be made under the provisions set forth in § 405.230(a) (1) and (2).

(b) *Payment to the person who furnished the services.* Payment in the amount determined in accordance with § 405.240 may be made to a person or organization, other than a participating provider of services or ESRD facility, that furnishes an enrolled individual medical and other health services for which payment may be made under the provisions set forth in §§ 405.230(a) (1) and (2), 405.231, and 405.232, if:

11. The appendix to subpart B is deleted.

APPENDIX [DELETED]

12. A new § 405.906 is added, to read as follows:

§ 405.906 Premiums not required for certain kidney donors.

Notwithstanding any other provisions in this title, no premiums are required from a kidney donor who is eligible for benefits in connection with kidney transplant surgery, solely on the basis of section 1881(d) of the Act. A kidney donor enrolled for medicare part B benefits is not relieved of liability for premiums by virtue of his or her donating a kidney.

(Secs. 1861(s)(2)(F), 1881(b)(1)(B), (4), (5), (6), and (7), 1881(d), and 1881(e) (42 U.S.C. 1395x).)

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

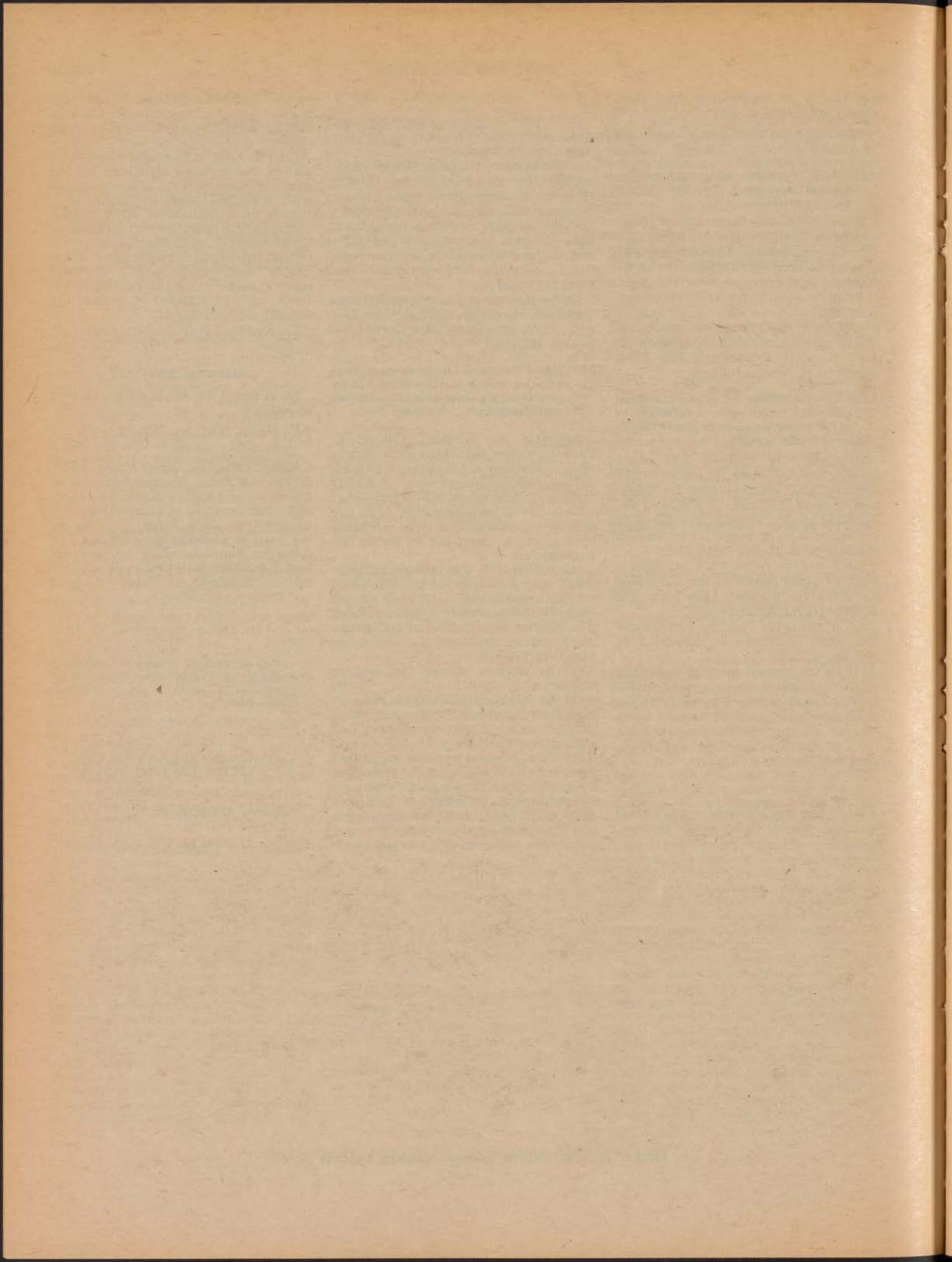
Dated: September 27, 1978.

ROBERT A. DERZON,
*Administrator, Health Care
Financing Administration.*

Approved: October 18, 1978.

JOSEPH A. CALIFANO, Jr.,
Secretary.

[FR Doc. 78-29965 Filed 10-23-78; 8:45 am]



**Register
Federal Order**

**TUESDAY, OCTOBER 24, 1978
PART VIII**



**DEPARTMENT OF
LABOR**

**Occupational Safety and
Health Administration**



**SELECTED GENERAL AND
SPECIAL (COOPERAGE
AND LAUNDRY
MACHINERY, AND
BAKERY EQUIPMENT)
INDUSTRY SAFETY AND
HEALTH STANDARDS**

Revocation

[4510-26-M]

Title 29—Labor

CHAPTER XVII—OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION, DEPARTMENT OF LABOR

PART 1910—OCCUPATIONAL SAFETY AND HEALTH STANDARDS

Selected General Industry Safety and Health Standards; Revocation

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTION: Final rule.

SUMMARY: This final rule revokes certain general industry safety and health standards codified in 29 CFR Part 1910. These standards are among those proposed for revocation on December 13, 1977 (42 FR 62734). OSHA has determined that revocation of most of the provisions proposed for revocation will better effectuate the purposes of the Occupational Safety and Health Act by allowing OSHA to concentrate its enforcement resources on hazards which have greater significance and impact on exposed employees. The Agency believes that this action will likewise permit both employers and employees to focus their attention toward the elimination or reduction of the more significant hazards in the workplace. OSHA has also determined that revocation of certain of those standards proposed for revocation would not be beneficial to employee safety or health, and therefore these requirements have been retained in the best interest of worker protection.

EFFECTIVE DATE: November 24, 1978.

FOR FURTHER INFORMATION CONTACT:

Dr. Jerry Purswell, Directorate of Safety Standards Programs, Occupational Safety and Health Administration, Department of Labor, Third Street and Constitution Avenue N.W., Room N-3510, Washington, D.C. 20210, telephone 202-523-7198.

SUPPLEMENTARY INFORMATION:

I. BACKGROUND

In order to assure safe and healthful working conditions for working men and women, the United States Congress enacted in 1970 the Occupational Safety and Health Act (the Act) (84 Stat. 1590, 29 U.S.C. 651 *et seq.*). Among other things, the Act authorized the Secretary of Labor " * * * to set mandatory occupational safety and health standards applicable to businesses affecting interstate com-

merce. * * * " (Section 2(b)(3) of the Act, 29 U.S.C. 651). Cognizant of the necessity of creating a speedy mechanism to issue standards expeditiously upon the statute's effective date, Congress in Section 6(a) of the Act authorized the Secretary " * * * [to] promulgate as an occupational safety or health standard any national consensus standard. * * * " 29 U.S.C. 655(a).

Following this Congressional direction, OSHA promulgated its initial occupational safety and health standards for General Industry on May 29, 1971, as 29 CFR Part 1910 (36 FR 10466). These standards were derived primarily from national consensus standards which were originally developed by such voluntary nongovernmental organizations as the American National Standards Institute (ANSI) and the National Fire Protection Association (NFPA). OSHA also adopted, as occupational safety and health standards, established Federal standards previously issued under several prior Acts of Congress; however, none of the standards derived from such established Federal standards were proposed for revocation in this rulemaking.

Since the adoption of these consensus standards, OSHA has received comments from many affected parties concerning the effectiveness, relevance, and applicability of a large number of their provisions. In the appropriations bill for fiscal year 1977, Congress specifically directed OSHA to eliminate "so-called 'nuisance standards' or standards which do not deal with workplace conditions that are clearly hazardous to the health or safety of workers or are more properly under the jurisdiction of State Departments of Public Health." More recently, President Carter ordered the Executive Departments to reduce and simplify the existing body of governmental regulations.

The Secretary of Labor and the Assistant Secretary for Occupational Safety and Health have responded to this mandate by reviewing the Agency's regulations and regulatory policy and redirecting its enforcement efforts toward more significant safety and health hazards. Among the initial steps was the creation of a task force charged with identifying and recommending to the Assistant Secretary provisions within 29 CFR Part 1910 (General Industry Safety and Health Standards) which should be modified. In order to achieve its first goals expeditiously, the Agency sought to identify those provisions within Part 1910 where the desired modification could be accomplished through the simple revocation of one or more provisions. The task force review culminated in two proposals to revoke a total of approximately 1,100 regulatory require-

ments. The proposals were announced on December 5, 1977, and published in the FEDERAL REGISTER on December 13, 1977 (42 FR 62734 and 42 FR 62892). The first proposal (Docket S-250), proposed to revoke selected standards of general applicability; the second (Docket S-251), involving special industry standards, proposed to revoke in their entirety 29 CFR 1910.214 (cooperage machinery), 1910.263 (bakery equipment), and 1910.264 (laundry machinery and operations). The standards proposed for revocation were all provisions derived from national consensus standards promulgated pursuant to section 6(a) of the Act.

In addition to these rulemakings, the Agency is continuing its on-going review of each Subpart of Part 1910 which subsequently will result in comprehensive revisions of 29 CFR Part 1910 (General Industry). In revising these subparts, the Agency intends to develop and promulgate new standards which will concentrate on the more serious safety hazards facing employees. Efforts will also be made to simplify regulatory language and eliminate detail wherever possible. OSHA believes that this will facilitate compliance, improve enforcement, and increase employee protection.

II. PROCEDURAL HISTORY

The December 13, 1977 proposal provided for a comment period continuing through March 3, 1978. Interested parties representing both employees and employers individually requested that this be extended to May 3, 1978. After reviewing such requests OSHA extended the comment period to May 3, 1978 (43 FR 9830, 43 FR 9831, March 10, 1978) for both Docket Nos. S-250 and S-251.

During the comment period, OSHA also received requests from several labor organizations to discuss the standards proposed for revocation. The requests were granted and meetings were conducted during the period March 13-23, 1978. Individual OSHA staff members presented the Agency's position regarding specific provisions proposed for revocation and outlined OSHA's policy objectives. A written memorandum summarizing the meetings was prepared and entered into the public record on April 11, 1978. Similar opportunity was made available to other interested groups. No other persons or groups requested similar meetings.

Eight interested parties filed requests for a hearing on the proposal to revoke general industry standards. Two requests were denied by the Agency in writing; one on the grounds that the nature of the hearing requested was beyond the scope of the particular rulemaking, and also that requesting party failed to substantial-

ly comply with the Agency's rules governing application for public hearing (29 CFR 1911.11 and reprinted in the preamble to the proposal); and second request, likewise for failure to substantially comply with 29 CFR 1911.11. The remaining requests were formally withdrawn by the filing parties. Therefore, no public hearing was held on the proposal.

III. GENERAL FINDINGS OF THE AGENCY AND SUMMARY OF THE FINAL RULE

In response to the many public concerns regarding the effectiveness, relevance, and applicability of these national consensus standards, OSHA has committed itself to a program of developing safety and health standards that more effectively achieve the goals and purposes of the Occupational Safety and Health Act by allowing OSHA to concentrate its enforcement resources on higher hazard industries and operations. As a first step, the Agency is revoking a number of those regulations identified by OSHA which most clearly have no direct or immediately relationship to the safety and health of employees, or are otherwise inappropriate to enforce pursuant to the Agency's statutory purposes.

In taking this action, OSHA has determined that these revocations will permit the Agency to better effectuate the purposes of the Act by focusing Agency resources on hazards which have greater significance and impact on exposed employees. The Agency also believes that this action will likewise permit both employers and employees to focus their attention toward the elimination or reduction of the more significant hazards in the workplace. OSHA believes that the objectives of this rulemaking are being achieved without compromising the health or safety of the affected workers.

For the reasons stated herein, the Agency has determined that the findings of the Secretary in this rulemaking meet the provisions of section 6(b)(8) of the Act, 29 U.S.C. 655.

Several criteria were used in determining which general industry standards should be proposed for revocation. In general, these categories were grouped as to standards which were:

1. Obsolete or inconsequential.
2. Concerned with comfort or convenience.
3. Directed toward public safety or property protection.
4. Subject to enforcement by other regulatory agencies.
5. Contingent on manufacturer's approval or recommendation.
6. Encumbered by unnecessary detail.
7. Adequately covered by other general standards.

A detailed listing identifying the standard proposed for revocation with one or more revocation criteria was prepared by OSHA and filed with its Technical Data Center for public inspection and copying. Notice of this document's availability was made in the preamble to the proposal. These criteria are discussed briefly below.

Criterion No. 1.—Obsolete or inconsequential. Some provisions have clearly become obsolete due to technological change or the expiration of time set forth within the standard itself. In the Agency's judgment, revocation of these provisions would not jeopardize employee safety in the workplace. Other provisions have been shown to be inconsequential to worker safety because they do not impose substantive requirements appropriate for mandatory enforcement by the Agency.

Criterion No. 2.—Concerned with comfort or convenience. Provisions proposed for revocation under this criterion were determined to be directed primarily to the comfort and convenience of employees rather than to safety or health hazards. Although the objectives of these standards may have beneficial consequences, they are not appropriate for enforcement as mandatory requirements under the Occupational Safety and Health Act.

Criterion No. 3.—Directed toward public safety or property protection. Some of the national consensus standards promulgated as OSHA standards are explicitly directed toward property protection or the safety of the general public, rather than employee safety and health. However, the Act defines occupational safety and health standards as standards which provide for "safe and healthful employment and places of employment." Section 3(8) of the Act. Therefore, the Agency proposed for revocation under this criterion provisions which were determined to explicitly and primarily affect the general public or property. However, standards which OSHA has ascertained do directly benefit employee safety or health, notwithstanding any public safety or property aspects, have not been revoked.

Criterion No. 4.—Subject to enforcement by other regulatory agencies. Standards proposed for revocation under this criterion are those which cover situations over which another Federal agency has exercised its statutory authority consistent with section 4(b)(1) of the Act. This section provides that OSHA's jurisdiction over specific working conditions is preempted whenever other Federal agencies " * * * exercise statutory authority to prescribe or enforce standards or regulations affecting occupational safety or health." 29 U.S.C. § 653(b)(1). In addition, section 4(b)(3) of the Act,

which reflects the Act's intent to avoid unnecessary duplication of governmental effort, also supports the revocation of these provisions.

Criterion No. 5.—Contingent on manufacturer's approvals or recommendations. Another group of OSHA standards proposed for revocation specifically requires employers to obtain the written approval of manufacturers for modifications of equipment. Such provisions may also require the employer to follow the manufacturer's instruction or recommendations for the equipment. Standards of this type were revoked based on the following: (1) the standard contained few or no guidelines for the manufacturers' approvals or recommendations; (2) the manufacturers' approval or recommendations appeared to be motivated by concerns only remotely related to employee safety; and/or (3) the standard gave full discretion to the manufacturer, placing OSHA in a difficult position to challenge effectively the appropriateness of the manufacturer's recommendation in an enforcement proceeding.

Criteria Nos. 6.—Encumbered by unnecessary detail and 7.—Adequately covered by other general standards. Numerous provisions and standards proposed for revocation contain very detailed design or construction requirements. These details should not be mandated for all situations. However, OSHA recognizes these highly detailed provisions may still be useful guidelines to be followed whenever appropriate. The revocation of these provisions will permit employers greater flexibility in selecting the specific methods to abate these workplace hazards, including the development of new technology. Moreover, other generally applicable provisions in 29 CFR Part 1910 will provide adequate protection without jeopardizing employee safety or health. In selecting the standards under these criteria, consideration was given to the nature of the operation, the type of hazard involved, and the adequacy of coverage under general standards.

A total of 230 comments were received regarding docket No. S-250. Of these, 58 were received from various trade associations, 89 from management, 22 from labor unions, 21 from other interested persons and 40 from various Governmental sources. Of the comments objecting to the proposed rulemaking, some were general in nature, addressing the concept of rulemaking and/or the criteria used in determining the standards proposed for revocation, while others addressed their objections to specific provisions proposed for revocation. Most of the comments in favor of the proposed rulemaking were general in nature.

OSHA has reviewed the provisions proposed for deletion, considering the criterion which most strongly supports revocation in light of specific public comments in favor of and opposed to revocation. The criteria for revocation of specific provisions were utilized in the following order of descending frequency: Encumbered by unnecessary detail (Criteria 6); Adequately covered by other general standards (Criteria 7); Directed toward public safety or property protection (Criteria 3); Obsolete or inconsequential (Criteria 1); Subject to enforcement by other regulatory agencies (Criteria 4); Contingent on manufacturer's approval or recommendation (Criteria 5); and Concerned with comfort or convenience (Criteria 2). Of the approximately 700 general industry standards proposed for revocation, 607 are being revoked. Upon reexamination of the evidence, OSHA has determined that certain standards proposed for revocation should be retained in the interest of worker protection.

IV. SPECIFIC FINDINGS OF THE SECRETARY

Therefore, in consideration of the evidence and public comments, OSHA has made the following specific determinations regarding the general industry standards proposed for revocation.

SUBPART D—WALKING-WORKING SURFACES

§ 1910.22 *General requirements.* A large number of commenters objected to the revocation of this provision, citing the dangers of overloading floors, especially balconies. At least two commenters cited specific cases where a building floor had collapsed due to overloading, causing injury to employees. Another commenter noted that this standard is frequently cited by Compliance Safety and Health Officers. Other commenters noted that local building officials should monitor the floor loading and establish appropriate controls to prevent overloading. However, still other commenters noted that building officials are seldom involved except when a building is initially constructed or substantially remodeled. They further implied that only OSHA would be able to detect overloading of floors which would occur during the normal course of building use.

Other commenters suggested a revision of the standard to improve its clarity. OSHA will consider the suggestions for revision and subsequent rulemaking when rewriting this subpart. However, this suggestion goes beyond the scope of this proceeding.

Upon reexamination of the evidence, OSHA has determined that in the best interest of worker protection the fol-

lowing provisions in 1910.22(d) should not be revoked:

Paragraph 1910.22(d)(1).

Paragraph 1910.22(d)(2).

§ 1910.23 *Guarding floor and wall openings and holes.* The provisions proposed for deletion in this section are concerned with the wood to be used for constructing railings and overhang of rail ends.

Paragraph 1910.23(e)(3) contains a very detailed requirement for the material to be used in the construction of railings which references documents that are unnecessarily detailed, and in some cases, no longer available because they are out of date. Therefore, this paragraph is revoked.

Paragraph 1910.23(e)(3)(v)(d) relates to the elimination of overhang of rail ends. Objections were received to this proposed revocation because those commenting considered that rail end overhang could constitute a hazard in a panic situation. OSHA has reviewed this objection and does not agree that the rail overhang which is prohibited by this provision would constitute a hazard. Therefore, this provision is revoked.

§ 1910.24 *Fixed industrial stairs.* No comments were received which objected to the proposed revocation of this standard, but two of those commenting suggested a partial deletion or revision of the standard. After reviewing the suggestions of the commenters for a partial deletion or revision of the standard, OSHA disagrees that it is necessary to retain a portion of paragraph 1910.24(k). As currently stated, this provision is inconsequential because it is stated only in terms of the desirability of using an open-grating type tread and cannot be enforced. Furthermore, other acceptable methods are available for providing a non-slip tread on outside stairs. For these reasons, this provision is revoked.

§ 1910.25 *Portable wood ladders.* This section contains a large number of detailed requirements for the construction, care, and use of common types of portable wood ladders. Comments were received objecting to the revocation of a portion of paragraph 1910.25(b)(1)(i) which contains a reference to Table D-5 that has very detailed requirements concerning the wood used for construction of ladders. OSHA disagrees with these commenters because the portion of this paragraph which is being retained will still provide an adequate assurance that the wood used for construction ladders is of sufficient quality. The revised paragraph will read as follows: "All wood parts shall be free from sharp edges and splinters; sound and free by accepted visual inspection from shake, wane, compression failures, decay or other irregularities. Low density wood shall not be used."

A large number of detailed requirements related to the type of materials to be used in ladder construction, especially the wood used, and the construction details for the ladder, follow in this section. All of the paragraphs proposed for revocation contain unnecessarily detailed information and are beyond the capability of a typical employer to ascertain when buying a wood ladder. The ladder manufacturer may choose from a variety of wood and construction methods to achieve an overall specification for the allowable load guaranteed for the ladder. OSHA compliance efforts can be directed principally toward insuring that the wood is sound and the ladder is stable.

For example, paragraph 1910.25(b)(1)(ii) contains detailed requirements related to permissible irregularities in western hemlock used for ladder construction. This requirement is unnecessarily detailed because the requirements being retained in paragraph 1910.25(b)(1)(i) are sufficient to insure that wood of adequate quality is used for ladder construction.

As another example, paragraph 1910.25(c)(2)(ii)(b) contains unnecessarily detailed construction requirements for ladders. Other equally acceptable methods exist for construction of ladders. It should also be noted, at this point, that OSHA is retaining provisions in paragraph 1910.25(d) which relate to the care and use of ladders. The specific provisions which are being retained in this section will permit OSHA compliance officers to issue citations for ladders which are not maintained adequately to be safe and serviceable regardless of the construction method used. For instance, paragraph 1910.25(d)(1) contains the following requirements which are being retained: "To insure safety and serviceability, the following precautions on the care of ladders shall be observed:

(i) Ladders shall be maintained in good condition at all times, the joint between the steps and side rails shall be tight, all hardware and fittings securely attached and the moveable parts shall operate freely without binding or undue play.

"(ii) Metal bearings of locks, wheels, pulleys, ect., shall be frequently lubricated.

"(iii) Frayed or badly worn rope shall be replaced.

"(iv) Safety feet and other auxiliary equipment shall be kept in good condition to insure proper performance.

"(x) Ladders shall be inspected frequently and those which have developed defects shall be withdrawn from service for repair or destruction and tagged or marked as 'Dangerous, Do Not Use.'

"(xi) Rungs shall be kept free of greases and oil."

OSHA believes that these provisions which are being retained provide adequate requirements for insuring the safety of wood ladders.

Paragraphs 1910.25(d)(1)(v) 1910.25(d)(1)(vi), and 1910.25(d)(1)(vii), 1910.25(d)(1)(viii), and 1910.25(b)(1)(ix) all contain recommended precautions for the storage, painting and transporting of wood ladders. They are considered to be unnecessary details and are revoked.

Paragraph (b)(1)(ii) of 1910.25 is revoked.

Paragraph (b)(2)(i) of 1910.25 is revoked.

Paragraph (b)(2)(ii) of 1910.25 is revoked.

Paragraph (b)(2)(iii) of 1910.25 is revoked.

Paragraph (b)(2)(iv) of 1910.25 is revoked.

Paragraph (b)(2)(v) of 1910.25 is revoked.

Paragraph (b)(3)(i) of 1910.25 is revoked.

Paragraph (b)(3)(ii) of 1910.25 is revoked.

Paragraph (b)(3)(iii) of 1910.25 is revoked.

Paragraph (b)(4) of 1910.25 is revoked.

Paragraph (b)(4)(i) of 1910.25 is revoked.

Paragraph (b)(4)(ii) of 1910.25 is revoked.

Paragraph (b)(5) of 1910.25 is revoked.

Paragraph (c)(1)(i) of 1910.25 is revoked.

Paragraph (c)(1)(ii) of 1910.25 is revoked.

Paragraph (c)(1)(iii) of 1910.25 is revoked.

Paragraph (c)(1)(iii)(a) of 1910.25 is revoked.

Paragraph (c)(1)(iii)(b) of 1910.25 is revoked.

Paragraph (c)(1)(iii)(c) of 1910.25 is revoked.

Paragraph (c)(1)(iii)(d) of 1910.25 is revoked.

Paragraph (c)(2)(i)(a) of 1910.25 is revoked.

Paragraph (c)(2)(i)(d) of 1910.25 is revoked.

Paragraph (c)(2)(i)(e) of 1910.25 is revoked.

Paragraph (c)(2)(i)(g) of 1910.25 is revoked.

Paragraph (c)(2)(i)(h) of 1910.25 is revoked.

Paragraph (c)(2)(i)(i) of 1910.25 is revoked.

Paragraph (c)(2)(ii)(a)(1) of 1910.25 is revoked.

Paragraph (c)(2)(ii)(a)(2) of 1910.25 is revoked.

Paragraph (c)(2)(ii)(b) of 1910.25 is revoked.

Paragraph (c)(2)(ii)(c) of 1910.25 is revoked.

Paragraph (c)(2)(ii)(c)(1) of 1910.25 is revoked.

Paragraph (c)(2)(ii)(c)(2) of 1910.25 is revoked.

Table D-4 of Subpart D is revoked.

Table D-3 of Subpart D is revoked.

Paragraph (c)(2)(ii)(d) of 1910.25 is revoked.

Paragraph (c)(2)(iii)(a)(1) of 1910.25 is revoked.

Paragraph (c)(2)(iii)(a)(2) of 1910.25 is revoked.

Paragraph (c)(2)(iii)(b) of 1910.25 is revoked.

Paragraph (c)(2)(iii)(c) of 1910.25 is revoked.

Paragraph (c)(2)(iii)(c)(1)(i) of 1910.25 is revoked.

Paragraph (c)(2)(iii)(c)(1)(ii) of 1910.25 is revoked.

Paragraph (c)(2)(iii)(c)(2) of 1910.25 is revoked.

Paragraph (c)(2)(iii)(c)(3) of 1910.25 is revoked.

Paragraph (c)(2)(iv)(a) of 1910.25 is revoked.

Paragraph (c)(2)(iv)(b) of 1910.25 is revoked.

Paragraph (c)(2)(iv)(c) of 1910.25 is revoked.

Paragraph (c)(2)(iv)(c)(1) of 1910.25 is revoked.

Paragraph (c)(2)(iv)(c)(2) of 1910.25 is revoked.

Paragraph (c)(3) of 1910.25 is revoked.

Paragraph (c)(3)(i)(a) of 1910.25 is revoked.

Paragraph (c)(3)(i)(b) of 1910.25 is revoked.

Paragraph (c)(3)(i)(c) of 1910.25 is revoked.

Paragraph (c)(3)(i)(d) of 1910.25 is revoked.

Paragraph (c)(3)(i)(e) of 1910.25 is revoked.

Paragraph (c)(3)(i)(f) of 1910.25 is revoked.

Paragraph (c)(3)(i)(g) of 1910.25 is revoked.

Paragraph (c)(3)(i)(h) of 1910.25 is revoked.

Paragraph (c)(3)(i)(i) of 1910.25 is revoked.

Paragraph (c)(3)(i)(j) of 1910.25 is revoked.

Paragraph (c)(3)(ii)(b) of 1910.25 is revoked.

Paragraph (c)(3)(ii)(c) of 1910.25 is revoked.

Paragraph (c)(3)(ii)(d) of 1910.25 is revoked.

Paragraph (c)(3)(iii)(b) of 1910.25 is revoked.

Paragraph (c)(3)(iii)(c) of 1910.25 is revoked.

Paragraph (c)(3)(iii)(d) of 1910.25 is revoked.

Paragraph (c)(3)(iii)(e) of 1910.25 is revoked.

Paragraph (c)(3)(iii)(f) of 1910.25 is revoked.

Paragraph (c)(3)(iii)(g)(1) of 1910.25 is revoked.

Paragraph (c)(3)(iii)(g)(2) of 1910.25 is revoked.

Paragraph (c)(3)(iv)(b) of 1910.25 is revoked.

Paragraph (c)(3)(iv)(c) of 1910.25 is revoked.

Paragraph (c)(3)(iv)(c)(1) of 1910.25 is revoked.

Paragraph (c)(3)(iv)(c)(2) of 1910.25 is revoked.

Paragraph (c)(3)(iv)(c)(3) of 1910.25 is revoked.

Paragraph (c)(3)(iv)(c)(4) of 1910.25 is revoked.

Table D-4 of Subpart D is revoked.

Paragraph (c)(3)(v)(b) of 1910.25 is revoked.

Paragraph (c)(3)(v)(c) of 1910.25 is revoked.

Paragraph (c)(3)(v)(d) of 1910.25 is revoked.

Paragraph (c)(3)(v)(e) of 1910.25 is revoked.

Paragraph (c)(3)(v)(f) of 1910.25 is revoked.

Paragraph (c)(3)(v)(g) of 1910.25 is revoked.

Paragraph (c)(4) of 1910.25 is revoked.

Paragraph (c)(4)(i) of 1910.25 is revoked.

Paragraph (c)(4)(i)(a) of 1910.25 is revoked.

Paragraph (c)(4)(i)(b) of 1910.25 is revoked.

Paragraph (c)(4)(i)(c) of 1910.25 is revoked.

Paragraph (c)(4)(i)(d) of 1910.25 is revoked.

Paragraph (c)(4)(i)(e) of 1910.25 is revoked.

Paragraph (c)(4)(i)(f) of 1910.25 is revoked.

Paragraph (c)(4)(ii)(b) of 1910.25 is revoked.

Paragraph (c)(4)(ii)(b)(1) of 1910.25 is revoked.

Paragraph (c)(4)(ii)(b)(2) of 1910.25 is revoked.

Paragraph (c)(4)(iii)(b) of 1910.25 is revoked.

Paragraph (c)(4)(iii)(c) of 1910.25 is revoked.

Paragraph (c)(4)(iii)(d) of 1910.25 is revoked.

Paragraph (c)(5)(ii) of 1910.25 is revoked.

Paragraph (c)(5)(iii) of 1910.25 is revoked.

Paragraph (c)(5)(iv) of 1910.25 is revoked.

Paragraph (c)(5)(v) of 1910.25 is revoked.

Paragraph (c)(5)(vi)(a) of 1910.25 is revoked.

Paragraph (c)(5)(vi)(b) of 1910.25 is revoked.

Paragraph (c)(5)(vi)(c) of 1910.25 is revoked.

Paragraph (c)(5)(vi)(d) of 1910.25 is revoked.

Paragraph (c)(5)(vii)(a) of 1910.25 is revoked.

Paragraph (c)(5)(vii)(b) of 1910.25 is revoked.

Paragraph (c)(5)(vii)(c) of 1910.25 is revoked.

Paragraph (c)(5)(vii)(d) of 1910.25 is revoked.

Paragraph (c)(5)(vii)(e) of 1910.25 is revoked.

Paragraph (c)(5)(vii)(f) of 1910.25 is revoked.

Paragraph (d)(1)(v) of 1910.25 is revoked.

Paragraph (d)(1)(vi) of 1910.25 is revoked.

Paragraph (d)(1)(vii) of 1910.25 is revoked.

Paragraph (d)(1)(viii) of 1910.25 is revoked.

Paragraph (d)(1)(ix) of 1910.25 is revoked.

Paragraph (d)(2)(xxi) of 1910.25 is revoked.

Table D-5 of subpart D is revoked.

§ 1910.26 *Portable metal ladders.* This section contains a large number of detailed requirements for the construction, care, and use of common types of portable metal ladders. One comment was received with the following statement: "I hereby request that the following list of standards not be rewritten. To add or delete from the present wording of these standards can only lead to retrogression in the telecommunications industry." The commenter than provided a list of sections, one of which was Section 1910.26. OSHA finds that this comment is not detailed with regard to any of the particulars of the paragraphs proposed for revocation in this section.

Another commenter pointed out that the proposed revocation of paragraph 1910.26(a)(3)(viii) would be inconsistent with the retention of paragraph 1910.25(c)(2)(i)(f) which requires that a metal spreader or locking device be used to hold the front and back sections of a stepladder open. OSHA agrees with this commenter that the revocation of paragraph 1910.26(a)(3)(viii) would be inconsistent and therefore this paragraph is not revoked.

The revocations which OSHA has proposed for this section, with the exception of those noted above, all provide unnecessary detail regarding the materials to be used and the construction methods for metal ladders. For example, paragraph 1910.26(b)(2) contains detailed requirements for the testing of straight and extension ladders. Such provisions are only applicable to a manufacturer of a ladder who has the facilities and equipment to test the ladder in accordance with the procedures. Even in this instance, it

should be noted that a more recent ANSI standard is available for the construction and testing of ladders. The typical employer who purchases a portable metal ladder would not possess the capabilities for testing of the ladder, but rather would purchase a ladder guaranteed for a given load which is in keeping with his intended use of the ladder. OSHA has retained certain provisions related to the construction of portable metal ladders that it believes are essential to the construction of the ladder and which can easily be observed by compliance officers, such as paragraph 1910.26(a)(1)(v) which is as follows: "Rungs and steps shall be corrugated, knurled, dimpled, coated with skid-resistant material, or otherwise treated to minimize the possibility of slipping." In addition, OSHA is retaining a number of paragraphs related to the care and use of ladders which are found in 1910.26(e)(2) beginning with paragraph (iv) and continuing through the remainder of the section. OSHA believes that the sections which are being retained will provide adequate requirements for the care of ladders to insure that a ladder which has been purchased originally as a safe ladder can be required to be maintained so that it continues to be a safe ladder.

OSHA therefore finds that the following paragraphs are unnecessary detailed.

Paragraph (a)(1)(i) of 1910.26 is revoked.

Paragraph (a)(1)(ii) of 1910.26 is revoked.

Paragraph (a)(1)(iv) of 1910.26 is revoked.

Paragraph (a)(1)(vi) of 1910.26 is revoked.

Paragraph (a)(2)(v)(a) of 1910.26 is revoked.

Paragraph (a)(2)(v)(b) of 1910.26 is revoked.

Paragraph (a)(3)(i) of 1910.26 is revoked.

Paragraph (a)(3)(ii) of 1910.26 is revoked.

Paragraph (a)(3)(iv) of 1910.26 is revoked.

Paragraph (a)(3)(v) of 1910.26 is revoked.

Paragraph (a)(3)(vi) of 1910.26 is revoked.

Paragraph (a)(4)(ii) of 1910.26 is revoked.

Paragraph (a)(4)(iii) of 1910.26 is revoked.

Paragraph (a)(4)(iv) of 1910.26 is revoked.

Paragraph (a)(4)(v) of 1910.26 is revoked.

Paragraph (a)(5)(ii) of 1910.26 is revoked.

Paragraph (a)(5)(iii) of 1910.26 is revoked.

Paragraph (a)(5)(iv) of 1910.26 is revoked.

Paragraph (a)(5)(v) of 1910.26 is revoked.

Paragraph (a)(5)(vi) of 1910.26 is revoked.

Paragraph (b)(1) of 1910.26 is revoked.

Paragraph (b)(2)(i) of 1910.26 is revoked.

Paragraph (b)(2)(ii) of 1910.26 is revoked.

Paragraph (b)(2)(iii) of 1910.26 is revoked.

Paragraph (b)(2)(iv) of 1910.26 is revoked.

Paragraph (b)(2)(v) of 1910.26 is revoked.

Paragraph (b)(2)(vi) of 1910.26 is revoked.

Paragraph (b)(2)(vii) of 1910.26 is revoked.

Paragraph (b)(3)(i)(a) of 1910.26 is revoked.

Paragraph (b)(3)(i)(b) of 1910.26 is revoked.

Paragraph (b)(3)(ii) of 1910.26 is revoked.

Table D-6 of subpart D is revoked.

Paragraph (c)(2)(i) of 1910.26 is revoked.

Paragraph (c)(2)(ii) of 1910.26 is revoked.

Paragraph (c)(2)(iii) of 1910.26 is revoked.

§ 1910.28 *Safety requirements for scaffolding.* OSHA received one comment regarding the proposed revocation of paragraph 1910.28(i)(2) which is concerned with the type of power unit which may be used for single point adjustable suspension scaffolds. The commenter objected to the revocation of this paragraph which requires that power units be either electrically or air motor driven. The basis of the objection stated was that the revocation of this paragraph would permit other types of power units to be used which, in the opinion of the commenter, would be unsafe. OSHA disagrees with this commenter, noting that the scaffolding, including power units, must be of a type tested and listed by Underwriters' Laboratories or Factory Mutual Engineering Corp., as stated in paragraph 1910.28(i)(1). Since this requirement is applicable to single-point adjustable suspension scaffolds, OSHA considers the requirement that the power unit be either electrically or air motor driven is inconsequential and this paragraph is hereby revoked.

A large number of commenters objected to the proposed revocation of paragraph 1910.28(i)(9) which requires that equipment shall be maintained and used in accordance with the manufacturers' instructions. The commenters included both manufacturers and distributors of single-point adjustable suspension scaffolds and organized labor. After reviewing these comments, OSHA believes that the

commenters' concerns are warranted for requiring that the equipment, because of its critical safety aspects, should be maintained and used in accordance with the manufacturers' instructions. OSHA, therefore, agrees with the commenters and will not revoke this paragraph.

Some of the commenters objected to the deletion of the words, "construction, alteration, demolition, and" from paragraph 1910.28(v). The purpose of the proposed revocation of this portion of the paragraph was to avoid duplication and misapplication of the general industry standards where other standards specifically exist in 29 CFR Part 1926.451 for scaffolding to be used during building construction, alteration, or demolition. Apparently, those commenting in opposition to this proposed revocation are not aware that other standards exist which are applicable to construction and further pursuant to OSHA's regulation governing the interpretation of standards 29 CFR 1910.5 that the general industry standards in 29 CFR Part 1910 are not to be applied where comparable standards exist in 29 CFR 1926. OSHA feels that this revocation is necessary to restrict the scope of the section appropriately and, therefore, the selected words noted above are revoked from this paragraph.

§ 1910.29 *Manually propelled mobile ladder standards and scaffolds (towers)*. OSHA received one comment with respect to a partial proposed revocation of 1910.29(a)(2)(iii) where the words "shall be of standard manufacture and conform to standard specifications of strength, dimensions, and weights and" were proposed for revocation. The revised paragraph would then read as follows: "The materials used in mobile ladder stands and scaffolds shall be selected to safely support the design working load." The commenter noted that while the portions remaining after the proposed revocation indicate that a safe design is to be used, there exists the possibility that workers could become confused and use nonstandard materials in the construction of mobile ladder stands and scaffolds without realizing that they had compromised the safe design of the ladder stand or scaffold. OSHA recognizes that this type of equipment is typically designed with certain component parts that are unique for that application and the use of other apparently similar component parts could compromise the integrity of the scaffold or ladder stand. For these reasons, OSHA agrees with the commenter, and the words proposed for revocation will be retained.

SUBPART E—MEANS OF EGRESS

§ 1910.36 *General requirements—means of egress*. Paragraph

1910.36(b)(8) contains the requirement that every building or structure occupied by workers shall have at least two means of egress which are distant from one another. This proposed revocation provoked a significant amount of comment. These commenters were largely opposed to the revocation of this paragraph, stating their belief that at least two means of egress should always be provided.

OSHA's position in proposing the revocation of this paragraph was that the other sections of 1910.36(b) not being proposed for revocation provided adequate requirements for means of emergency egress without specifically stating that a minimum number of two means of egress should be provided regardless of other precautions taken in assuring safe egress. While OSHA continues to believe that adequate requirements exist in the remainder of 1910.36(b) without the specific incorporation of 1910.36(b)(8), OSHA agrees with the commenters that the specific statement that at least two means of egress should be provided does reinforce the requirements present in the other portions of 1910.36(b). Therefore, this paragraph is not revoked.

SUBPART F—POWERED PLATFORMS, MANLIFTS, AND VEHICLE-MOUNTED WORK PLATFORMS

§ 1910.66 *Powered platforms for exterior building maintenance*. Paragraph 1910.66(c) prescribes regulations for hoisting ropes and rope connections for use with type F powered platforms for exterior building maintenance. OSHA has reviewed the comments received and studied the evidence and has determined that certain paragraphs in the section dealing with the fabrication of both the wire rope and the metal data tags represented requirements so detailed, that the flexibility needed to achieve maximum workplace hazard abatement was limited. OSHA has determined therefore that four provisions in this section may be revoked without reducing employee safety. The four provisions being revoked from paragraph 1910.66(c) for containing unnecessary detail are 1910.66(c)(20)(ii) which deals with overall wire grade, wire coding, drawing to finished size and other mechanical properties; 1910.66(c)(21)(i)(h) which requires the name of the person or firm who installed the rope; 1910.66(c)(21)(ii) which specifies the fabrication of the rope tag and the lettering characteristics; and 1910.66(c)(21)(iii) which prescribes rope tag installation requirements when ropes are renewed or re-fastened.

Upon reexamination of the evidence, OSHA has determined that, in the best interest of worker protection, the

following provisions in 1910.66(c)(21) should not be revoked:

- 1910.66(c)(21)(i)—metal data tag.
- 1910.66(c)(21)(i)(a)—diameter.
- 1910.66(c)(21)(i)(b)—construction classification.
- 1910.66(c)(21)(i)(c)—performed or nonperformed.
- 1910.66(c)(21)(i)(d)—grade of material.
- 1910.66(c)(21)(i)(e)—rated breaking strength.
- 1910.66(c)(21)(i)(f)—name of manufacturer.
- 1910.66(c)(21)(i)(g)—month and year of manufacture.

§ 1910.68 *Manlifts*. Paragraph 1910.68(b) prescribes general requirements applicable to manlifts which are used to carry only personnel trained and authorized by the employer in their use. OSHA has reviewed the comments and the evidence received and determined that the provision proposed for revocation in this paragraph should be revoked because it addresses public safety.

Paragraph 1910.68(b)(8)(vi) requires protection of manlift entrances and exits in buildings to which the public has access. This provision is revoked because public safety is addressed, rather than employee safety.

Paragraph 1910.68(c) prescribes the mechanical requirements applicable to manlifts. Included in this paragraph are two provisions directed toward instruction and warning signs. OSHA has reviewed the evidence and the comments received and determined that these two provisions should be revoked because they contain unnecessary detail.

Paragraph 1910.68(c)(7)(i)(a) provides specific requirements for instruction signs at manlift landings and on manlift belts. This provision is revoked because it contains unnecessary detail for sign letters and colors, and does not address employee safety.

Paragraph 1910.68(c)(7)(iii) provides specific requirements for visitor warning signs at manlift landings. The second sentence of the provision is revoked because it requires unnecessary detail for sign letters and color, and does not address employee safety.

Upon reexamination of the evidence, OSHA has determined that, in the best interest of worker protection, the following provision in 1910.68(e) should not be revoked:

- 1910.68(e)(3)—inspection log.

SUBPART G—OCCUPATIONAL HEALTH AND ENVIRONMENTAL CONTROLS

§ 1910.94 *Ventilation*. This section contains certain requirements for fans and ductwork used in spray booths.

All comments received were in favor of revoking paragraph 1910.94(c)(5)(i)(b) which contains a reference to the obsolete document, Air Moving

and Conditioning Association Standard Bulletin 210, dated April 1962, which addresses a method for rating of fans.

There were no comments advocating retention of paragraph 1910.94(c)(5)(iii) which contains detailed design specifications for duct construction. Paragraph 1910.107(d) covers this subject area and there is no need for duplicate coverage.

Therefore, paragraphs 1910.94(c)(5)(i)(b) and 1910.94(c)(5)(iii) are revoked because they contain unnecessary detail.

§ 1910.96 Ionizing radiation. After a careful review of all comments and reexamination of the evidence, OSHA has determined that all 13 provisions of § 1910.96 which were proposed for revocation can be revoked without compromising employee safety and health.

Of the provisions being revoked, three contain inconsequential requirements, four concern loss of the use of facilities and/or damage to property and one entire paragraph containing six provisions, is covered by another Federal agency.

Paragraph 1910.96(b)(5) is concerned with limiting when employers may change the method used to determine calendar quarters for exposure record keeping purposes to the beginning of the calendar year. There were several comments on this proposed revocation, most of which favor retention. The main reason given was that if arbitrary change of quarters was allowed employers would manipulate to allow higher exposures.

OSHA has taken the position that any increased exposure which may be received by an employee because of a change in the method of determining calendar quarters as would be allowed by revocation of paragraph 1910.96(b)(5) would be inconsequential and therefore this paragraph is revoked.

Paragraph 1910.96(e)(1)(ii) explicitly allows other appropriate information on caution signs and labels in addition to that prescribed. There was no substantive comment. This provision is inconsequential and is therefore revoked.

Paragraphs 1910.96(l)(1)(iii) and 1910.96(l)(2)(iii) concern the reporting to OSHA of the loss of the operation of facilities and paragraphs 1910.96(l)(1)(iv) and 1910.96(l)(2)(iii) concern damage to property. Some commenters favored revoking these paragraphs, while a number were opposed. The reason most often given by those opposing revocation was that accidents which cause loss of use of facilities and property damage often also cause injuries and fatalities. Reporting will be followed by investigation and

may prevent a recurrence which could otherwise cause injuries and deaths.

It is the Agency's position that the reporting of such incidents to OSHA is not essential, and therefore these provisions are revoked.

Paragraph 1910.96(o)(2) concerns the information that a former employee should include when requesting exposure records. No substantive comments were received on this proposed revocation. This provision is inconsequential and is therefore revoked.

Paragraph 1910.96(r) is concerned with radiation standards for mining. Mine Safety and Health is under the jurisdiction of the Mine Safety and Health Administration, Department of Labor which has issued such standards in Title 30 of the Code of Federal Regulations. Paragraph 1910.96(r) is therefore revoked.

SUBPART H—HAZARDOUS MATERIALS

1910.103 Hydrogen. This section contains a large number of detailed requirements for installation of gaseous hydrogen systems on consumer premises where the hydrogen supply to the consumer premises originates outside the consumer premises and is delivered by mobile equipment.

The provisions, which are the following lines in Table H-2, line 13 "public sidewalks * * *" and line 14 "line of adjoining property * * *", and the words "and places of public assembly" from the footnote to the Table designated by " * * *", address public safety and property protection concerns. Also line 12 of Table H-4 and the following provision in the footnote which states the words "and places of public assembly" address public protection or property protection issue. Comments were received objecting to the revocation of these provisions. OSHA disagrees with these commenters because the portion of the Table which is being revoked provides protection for public safety and property protection which is not within OSHA's regulatory authority. Therefore, Table H-2 of 1910.103 is amended by striking line 13, "public sidewalks * * *," and line 14, "line of adjoining property * * *," and by striking the words "and places of public assembly" from the footnote to the Table designated by " * * *." Table H-4 of 1910.103 is amended by striking line 12 thereof, and by striking in the footnote the words "and places of public assembly." Upon reexamination of the evidence, OSHA has determined that, in the best interest of worker protection, the following provision in 1910.103 which was proposed for revocation should not be revoked:

Paragraph 1910.103(c)(1)(ii)—Second sentence dealing with protective coating for steel subparts.

§ 1910.104 Oxygen. This section contains a large number of detailed requirements for installation of bulk oxygen systems on industrial and institutional consumer premises.

The majority of comments received support the revocation of paragraphs 1910.104(b)(3)(xiv), public areas; 1910.104(b)(3)(xv), patients; 1910.104(b)(3)(xvi), sidewalks; and 1910.104(b)(3)(xvii), adjacent property which are requirements for public safety and property protection.

Therefore, paragraphs 1910.104(b)(3)(xiv), 1910.104(b)(3)(xv), 1910.104(b)(3)(xvi), and 1910.104(b)(3)(xvii) are revoked because they are concerned with public safety and property protection.

In addition, paragraph 1910.104(b)(3)(xviii), exceptions is amended by striking the numerical references "(xvi) and (xvii)" as these provisions are revoked.

§ 1910.106 Flammable and combustible liquids. Section 1910.106 contains many detailed specifications which are related to tank storage of flammable and combustible liquids.

Some paragraphs contain advisory language which are for information only and are without a basis for enforcement. For example, paragraph 1910.106(b)(1)(i)(e) states that tanks "may" have either combustible or non-combustible linings and does not require mandatory action by the employer. The same is true for paragraph 1910.106(b)(1)(ii)(a).

Comments received support the revocation of these paragraphs for the reasons explained above. Therefore, the provisions in paragraph 1910.106(b)(1)(i)(e), (b)(1)(ii)(a), (d)(6)(ii)(a), (f)(4)(ii) and (f)(4)(v) are revoked because they are advisory and inconsequential to employee safety.

Certain paragraphs of this section contain detailed specifications which regulate the location of storage tanks with respect to property lines and public ways.

There were comments which objected to the revocation of certain provisions containing specific distances to property lines and public ways; however, the majority of comments supported their revocation because they are directed toward property protection. Therefore, the following paragraphs and supporting Tables are revoked because they mandate specific distances of separation between storage tanks and property lines and are directed to property protection: 1910.106(b)(2)(i)(a) and Table H-5; 1910.106(b)(2)(i)(b) and Table H-6; 1910.106(b)(2)(i)(c) and Table H-7; 1910.106(b)(2)(i)(d) and Table H-8; 1910.106(b)(2)(i)(e); 1910.106(b)(2)(i)(f) and Table H-9; 1910.106(b)(2)(iii); 1910.106(h)(2)(i) and Table H-20 and 1910.106(h)(2)(ii).

Certain paragraphs in this section regulate the use of drainage and diking systems to control accidental discharging of liquids. For example, paragraphs 1910.106(b)(2)(vii)(b)(1) and (b)(2)(vii)(b)(3) regulate certain design factors of man-made or natural drainage systems which have been included to protect "property, natural water courses, public sewers, and public drains." Since these provisions are directed toward property protection, they are revoked.

Paragraphs 1910.106(b)(2)(vii), (c)(5), (c)(7)(i), (c)(7)(ii), (c)(7)(iii), and (c)(7)(iv), regulate certain design criteria for diking systems. These criteria are encumbered by unnecessary detail and are directed toward property protection. For example, paragraphs 1910.106(b)(2)(vii) (c)(3) and (c)(4) regulate the height and width of dike walls. These requirements are unnecessary because adequate employee protection is provided in paragraphs 1910.106(b)(2)(vii) (c)(1) and (c)(2). Paragraph 1910.106(b)(2)(vii)(c)(7) contains requirements directed toward protection of other storage tanks.

While some comments object to revocations, the majority of comments received support the revocation of these paragraphs because they are encumbered with unnecessary detail and because they are directed toward property protection. Therefore, the following provisions are revoked: 1910.106(b)(2)(vii)(c)(5), 1910.106(b)(2)(vii)(c)(7), 1910.106(b)(2)(vii)(c)(7)(i), 1910.106(b)(2)(vii)(c)(7)(ii), 1910.106(b)(2)(vii)(c)(7)(iii), and 1910.106(b)(2)(vii)(c)(7)(iv). These standards regulate dikes and drainage areas surrounding storage tanks.

Paragraphs 1910.106(b)(2)(viii)(a), (b)(2)(viii)(b), and (b)(2)(viii)(c) contain certain requirements directed toward prevention of liquid spills.

While a few comments objected to the proposed revocations, most of the comments received support this revocation because of the property protection aspects of the requirements. Therefore, the following requirements are revoked: 1910.106 (b)(2)(viii)(a), 1910.106 (b)(2)(viii)(b), and 1910.106 (b)(2)(viii)(c).

One paragraph, 1910.106 (b)(5)(vi)(e), provides protection for spherical and spheroidal tanks. Comments support the revocation of this property protection standard. OSHA agrees with the comments and the requirement is revoked because it is directed toward property protection.

Certain paragraphs in this section are directed to the regulation of flammable and combustible liquid storage inside of buildings. These paragraphs limit the amount of liquids that may be stored in certain occupancies based

on the degree of fuel loading as related to public property protection.

For example, paragraph 1910.106 (d)(5)(iv) sets limits for the amount of liquids to be stored inside of mercantile or other retail stores. These limits are based on the possible exposure of the public to fires involving stored liquids. Employee protection from exposure to the hazards of fire involving stored liquids is assured by paragraph 1910.106(d)(5)(i). In case of a fire, employees can be evacuated and the amount of fuel load becomes inconsequential to their safety.

Other paragraphs limit the amount of flammable and combustible liquids to be stored in areas where employee exposure is limited and where adequate fire protection systems are provided but not required. For example, Tables H-14 and H-15 limit stacking heights of flammable and combustible liquids in warehouses. Again, limited employee exposure and easy egress from the area makes such limitation unnecessary for employee safety. Paragraph 1910.106(d)(5)(i) would provide adequate employee safety.

Comments received support revocation of standards directed toward property protection when adequate employee safety is provided for in other ways. Therefore, since employee safety is adequately insured by paragraph 1910.106(d)(5)(i), the following provisions are revoked because they are directed to property protection: 1910.106 (d)(5)(iv)(a), 1910.106 (d)(5)(iv) (b), 1910.106 (d)(5) (iv)(c), 1910.106 (d)(5)(iv)(d), 1910.106 (g) (1)(ii)(c). These standards regulate storage of flammable and combustible liquids in mercantile and service station occupancies.

Tables H-14 and H-15 are amended by striking the two headings entitled "Height" and all numbers appearing thereunder.

Paragraphs 1910.106 (e)(3)(iv)(c) and (h)(3)(ii)(c) are directed toward protection of property by regulating plant drainage systems. These paragraphs are revoked because they protect "public waterways, public sewers and adjoining property." Comments received support this revocation.

Paragraph 1910.106(f)(4)(iii) is directed toward property protection because it sets limits to the distances between bridges or similar structures and bulk tank vessels on waterways. Comments received support revocation of this paragraph because it is directed toward property protection. Therefore, the paragraph is revoked.

Paragraph 1910.106(g)(1)(iv) is directed to the sale of flammable or combustible liquids at service stations and is not directly related to employee safety.

Employee safety at service stations during dispensing operations does not

depend on whether the container being filled is labeled or not. The adequacy of containers for storage of liquids is provided for in paragraph 1910.106(d)(2)(i) where approved containers are required. Therefore, paragraph 1910.106(g)(1)(iv) is revoked.

Paragraph 1910.106(i)(4) of this section contains requirements directed toward spill containment and property protection, particularly the property of others. Comments received support the revocation of this paragraph. However, OSHA believes that only the second sentence should be revoked. Therefore, paragraph 1910.106(i)(4) is amended by revoking the second sentence thereof.

Upon reexamination of the evidence, OSHA has determined that in the best interest of worker protection, the following provisions of section 1910.106 should not be revoked:

- 1910.106(b)(2)(vi)(b).
- 1910.106(b)(2)(vii)(a).
- 1910.106(b)(2)(vii)(b).
- 1910.106(b)(2)(vii)(b)(2).
- 1910.106(b)(2)(vii)(c).
- 1910.106(b)(2)(vii)(c)(1).
- 1910.106(b)(2)(vii)(c)(2).
- 1910.106(b)(2)(vii)(c)(3).
- 1910.106(b)(2)(vii)(c)(4).
- 1910.106(b)(2)(vii)(c)(6).
- 1910.106(b)(2)(vii)(d).
- 1910.106(b)(2)(vii)(e).
- 1910.106(b)(2)(vii)(f).
- 1910.106(d)(2)(iii)(b).
- 1910.106(d)(5)(ii)(a).
- 1910.106(d)(6)(i).
- Table H-16
- 1910.106(d)(6)(ii).
- 1910.106(d)(6)(ii)(b).
- Table H-17
- 1910.106(g)(3)(vi)(b).
- 1910.106(g)(3)(vi)(c).

§ 1910.109 Explosives and blasting agents. The OSHA standards for explosives and blasting agents contain some definitions which are inconsequential in enhancing employee safety. These definitions include paragraph 1910.109(a)(9) which provides a definition for "public conveyance" and paragraph 1910.109(a)(11) which provides a definition for "railway." Other definitions are inconsequential to employee safety since they contain information pertaining to standards of another regulatory agency. For example, paragraph 1910.109(a)(20) serves only as a reference to specifications contained in the Department of Transportation regulations.

Some commenters disagree with revoking any definitions since the definitions may provide helpful information in the implementation of the standard. However, the majority of commenters agree with OSHA that there are some definitions which do not contain information which will enhance employee safety or enhance the implementation of the standard. The under-

standing of OSHA's explosives and blasting agents requirements would not be compromised by the revocation of these inconsequential definitions. Therefore, paragraph 1910.109(a)(5) which is the definition for "inhabited building;" 1910.109(a)(9) which is the definition for "public conveyance;" 1910.109(a)(11) which is the definition for "railway;" 1910.109(a)(20) which is the definition for "DOT regulations;" 1910.109(a)(21) which is the definition for DOT requirements; and, 1910.109(i)(1)(ii)(a) which provides information concerning the definition of ammonium nitrate fertilizer are revoked.

Paragraph 1910.109(c)(2)(iii) contains a sentence which prescribes location requirements for warning signs that are required on explosives storage magazines. Commenters agree with OSHA that this sentence can be revoked since it contains unnecessary detail that does not enhance employee safety. Additionally, magazine sign requirements are, in fact, regulated and controlled by another regulatory agency, the Bureau of Alcohol, Tobacco and Firearms of the U.S. Department of Treasury. Accordingly, paragraph 1910.109(c)(2)(iii) is amended by striking the second sentence thereof.

1910.109(d)(2)(ii)(b) prescribes detailed specifications for the marking of placards which are required for vehicles transporting explosives and oxidizing materials. Commenters agree with OSHA that these specifications provide unnecessary detail and can be revoked without compromising employee safety. Additionally, the marking and placarding of vehicles transporting explosives is controlled by another regulatory agency, i.e., the Department of Transportation. Therefore, paragraph 1910.109(d)(2)(ii)(b) is revoked.

Some of the standards contained in Section 1910.109 included property and public safety provisions which do not relate directly to employee safety. These provisions address such property protection requirements as the locking of magazines, minimum distances of storage and use of explosives with respect to "inhabited buildings," and property lines. Other provisions address such public safety requirements as the transportation of explosive material on public conveyances, blasting in congested areas, distances to public highways, and the amount of smokeless propellants and small arms ammunition primers allowed to be displayed in a commercial establishment. These provisions are subject to control by local building and fire code officials, and are regulated by the Department of Transportation and the Bureau of Alcohol, Tobacco and Firearms.

Accordingly, the following provisions are revoked because they are directed

to property protection or public safety in that they specify minimum distance requirements in locating explosive materials installations and storage; and, because they address the use and transportation of explosive materials only in relation to public safety:

1910.109(b)(2) concerning unauthorized receipts of explosives or blasting agents;

1910.109(b)(3) concerning displaying explosive or blasting agents on any highway, street, sidewalk, public way, or public place;

1910.109(c)(3)(viii) concerning the locking of magazines;

1910.109(d)(1)(ii) concerning the transportation of explosives upon public conveyances or vehicles carrying passengers for hire;

1910.109(e)(4)(i) concerning the use of electric blasting caps in congested districts, or on highways, or adjacent to highways open to traffic;

1910.109(g)(2)(i) concerning the location of buildings used for mixing blasting agents with respect to inhabited buildings, passenger railroads and public highways;

1910.109(g)(6)(v) concerning the carrying or transportation of blasting agents upon public vehicles carrying passengers for hire;

1910.109(g)(6)(vii) concerning the marking of blasting agents when transported on public highways;

1910.109(g)(6)(viii) concerning the placarding of vehicles transporting blasting agents on public highways;

1910.109(h)(3)(i)(a) concerning the location of buildings used for mixing water gels in respect to inhabited buildings, passenger railroads, and public highways;

Paragraph 1910.109(h)(3)(i)(b) concerning the distance separating highways, railroads and inhabited buildings from potential explosions in fixed explosive mixing locations;

Paragraph 1910.109(j)(3)(ii) concerning the displaying of smokeless propellants in commercial establishments; and

Paragraph 1910.109(j)(4)(ii) concerning the displaying of small arms ammunition primers in commercial establishments.

The following paragraphs contain provisions which address public protection and property protection. These provisions are also subject to control by local building and fire code officials and are regulated by the Department of Transportation and the Bureau of Alcohol, Tobacco and Firearms. Accordingly, these paragraphs are amended as follows:

Paragraph 1910.109(b)(1) which concerns the general hazard of explosives is amended by striking words, "and property."

Table H-21 which is the *American Table of Distances for Storage of Ex-*

plosives is amended by striking the three column headings entitled, "Inhabited buildings, passenger railways, and public highways;" and, also striking all numbers appearing thereunder.

Paragraph 1910.109(c)(1)(viii) which concerns location requirements for Class II magazines is amended by striking the words, "neighboring inhabited buildings, railways, highways, and."

Paragraph 1910.109(c)(4)(iii) which concerns magazine locks is amended by striking the second sentence thereof.

Paragraph 1910.109(d)(3)(i) which prescribes requirements for drivers of vehicles transporting explosives is amended by striking the words, "physically fit, careful, capable, reliable, able to read and write the English language, and not addicted to the use, or under the influence of intoxicants, narcotics, or other dangerous drugs, and not less than 21 years of age. He shall be."

Paragraph 1910.109(d)(3)(ii) which concerns parking requirements for vehicles transporting explosives is amended by striking the words, "bridge, tunnel, dwelling, building, or" and "congregate or assemble."

Paragraph 1910.109(e)(1)(iii) which concerns the covering of a blast to prevent the throwing of fragments is amended by striking the words "railway, or highway."

Paragraph 1910.109(g)(5)(i)(c) which concerns onsite storage of blasting agents is amended by striking the words, "Table H-21 with respect to inhabited buildings, passenger railways, and public highways and according to."

Paragraph 1910.109(g)(5)(ii)(a) which concerns warehouse location requirements for blasting agents is amended by striking the words, "the provisions of Table H-21 with respect to inhabited buildings, passenger railways, and public highways, and according to."

Paragraph 1910.109(i)(1)(i)(e) which concerns the production and storage of ammonium nitrate is amended by striking the words, "provided that no distinct undue hazard to the public is created."

Paragraph 1910.109(i)(2)(iii)(e) which concerns the continued use of existing buildings for storage of ammonium nitrate is amended by striking the words, "or adjoining property."

The following paragraphs contain minimum age requirements for those employees in charge of storage magazines and for drivers of vehicles transporting explosives. There age requirements are inconsequential to employee safety, and the public safety aspect is regulated and controlled by the Bureau of Alcohol, Tobacco and Firearms, and the Department of Trans-

portation. Accordingly, those paragraphs which specify minimum age requirements are amended as follows:

Paragraph 1910.109(c)(5)(viii) is amended by striking the words, "who shall be at least 21 years of age."

Paragraph 1910.109(g)(5)(vii) is amended by striking the words, "who shall be not less than 21 years of age."

Paragraph 1910.109(g)(6)(ii) is amended by striking the words, "at least twenty-one (21) years of age who is capable, careful, reliable, and."

§1910.110 *Storage and handling of liquified petroleum gases.* Section 1910.110 contains a large number of property and public safety requirements for liquified petroleum gas (LPG) installations, use, and handling.

Paragraphs 1910.110(a)(17) and (a)(18) prescribe definitions for DOT regulations and DOT requirements. All comments received were in favor of revoking these definitions. Therefore, because the definitions in paragraphs 1910.110(a)(17) and (a)(18) are inconsequential in nature and pertain to standards of another regulatory agency, they are revoked.

Paragraphs 1910.110(b)(6)(ii) and (b)(6)(iv) prescribe locations for LPG containers. The vast majority of comments received favored the revocation of these provisions. The provisions are directed toward property protection and their intent is regulated and controlled by local building and fire officials.

Therefore, the phrase "or line of adjoining property which may be built on" in paragraph 1910.110(b)(6)(ii) and all of paragraph (b)(6)(iv) are revoked because they are directed towards property protection which is beyond OSHA's regulatory authority, and in addition, employee safety will not be compromised.

Paragraphs 1910.110 (b)(11)(iii)(i), (b)(11)(iv)(g), and (b)(15)(viii)(b) relate to the minimum distances which vaporizers and tank car or transport truck loading and unloading points may be located to adjacent property. The vast majority of comments received were in favor of revoking these provisions. Therefore, the phrase "or line of adjoining property which may be built upon" in paragraphs 1910.110 (b)(11)(iii)(i), (b)(11)(iv)(g) and all of paragraph (b)(15)(viii)(b) are revoked because they are directed to property protection which is beyond OSHA's regulatory authority.

Paragraphs 1910.110(c)(5)(iv), (a), (a)(1) (a)(2), (a)(3), and (b) prescribe requirements which are directed solely to public protection. Consistent with the overwhelming majority of comments received, paragraphs 1910.110(c)(5)(iv) (a), (a)(1), (a)(2), (a)(3), and (b) are revoked.

Paragraph 1910.110(c)(5)(ix)(c) specifies that LPG containers shall be

removed from a building once a training class has terminated. An overwhelming number of the comments received were in favor of revoking this requirement. Since this provision is directed to property protection, paragraph 1910.110(c)(5)(ix)(c) is revoked.

Paragraphs 1910.110 (d)(13)(i)(b), (d)(13)(ii)(a), and (d)(13)(iii)(b) prescribe locations for container-charging rooms. The majority of comments received favor revoking these provisions. The provisions are directed toward property protection of future buildings, and the intent of the provisions are regulated and controlled by local building and fire officials. Therefore, paragraphs 1910.110 (d)(13)(i)(b), (d)(13)(ii)(a), and (d)(13)(iii)(b) are revoked because they are directed towards property protection.

Paragraph 1910.110(d)(15) states "Above ground containers shall be kept properly painted." The vast majority of comments received were in favor of revoking this provision. Therefore, paragraph 1910.110(d)(15) is revoked because it is directed towards property protection which is beyond OSHA's regulatory authority.

Paragraphs 1910.110 (e)(13)(iii), (e)(13)(iv), (f)(3)(i), and (f)(3)(ii) prescribe requirements for the use of LPG powered industrial trucks, and the storage of LPG cylinders within buildings frequented by the public. The majority of comments received favored the revoking of these provisions. Therefore, paragraphs 1910.110 (e)(13)(iii), (e)(13)(iv), (f)(3)(i) and (f)(3)(ii) are revoked since public protection in general does not have particular impact on employee safety.

Paragraphs 1910.110 (f)(6)(i)(b), (f)(6)(i)(d) and the phrase "and adjoining property lines which may be built upon" in paragraph (h)(6)(i)(a) prescribe the location of containers stored outside and containers stored at service stations. The majority of comments received favored the revoking of these provisions since they relate to property protection. Accordingly, paragraphs 1910.110 (b)(6)(i)(b) (f)(6)(i)(d) and the phrase "and adjoining property lines which may be built upon" in paragraph (h)(6)(i)(a) are revoked.

Paragraph 1910.110(g)(1) specifies the application of the requirements for LPG systems used on vehicles and trailers. The phrase proposed for revocation "or public service purposes such as mobile libraries and clinics" deals with public safety. The vast majority of comments received were in favor of revoking this requirement. Therefore, the phrase shown above in paragraph 1910.110(g)(1) is revoked because it addresses a public safety issue.

§1910.111 *Storage and handling of anhydrous ammonia.* Paragraph 1910.111(a)(2) provides definitions of

the terms used in the section on the storage and handling of anhydrous ammonia. OSHA has reviewed the evidence and the comments received and determined that the two provisions in this paragraph proposed for revocation should be revoked because they are inconsequential.

Paragraph 1910.111(a)(2)(xiii) references paragraph 1910.111(a)(2)(xii) for the definition of "DOT regulations." This provision is revoked as being inconsequential, because the term "DOT regulations" is synonymous with the term "DOT specifications" in Paragraph 1910.111(a)(2)(xii).

Paragraph 1910.111(a)(2)(xiv) references paragraph 1910.111(a)(2)(xii) for the definition of the "DOT requirements." This provision is revoked as being inconsequential, because the term "DOT requirements" is synonymous with the term "DOT specifications" in paragraph 1910.111(a)(2)(xii).

Paragraph 1910.111(b) provides basic rules for the storage and handling of anhydrous ammonia. OSHA has examined the evidence and the comments received and determined that the six provisions proposed for revocation in paragraph 1910.111(b) may be revoked without compromising employee safety. Two provisions are revoked from paragraph (b) because they address public safety; two are revoked because they are inconsequential; one because another Federal agency is exercising statutory authority with regard to that provision and another because it is concerned with property protection.

Paragraph 1910.111(b)(5)(iii) requires that permanent storage containers be located outside densely populated areas. This provision is revoked because it addresses public safety.

Paragraph 1910.111(b)(5)(iv) and Table H-35 specify the distances between permanent storage containers and public property. Paragraph 1910.111(b)(5)(iv) and Table H-35 are revoked because they address property protection and public safety.

Paragraph 1910.111(b)(11)(iii) requires that the regulations of the Department of Transportation (DOT) must be followed if shipped under the jurisdiction of DOT. This provision is revoked because it relates to the regulatory authority of DOT and not of OSHA.

Paragraph 1910.111(b)(11)(iv) refers to paragraph 1910.111(d) for information on filling densities of refrigerated storage containers. This provision is revoked as being inconsequential because it only references information in another paragraph of the standard.

Paragraph 1910.111(b)(12)(vi)(f) requires an oil separator be provided in the discharge side of the compressor used for transferring anhydrous ammonia. This provision is revoked be-

cause the purpose of this provision is to prevent contamination of the ammonia, rather than protect employee safety.

Paragraph 1910.111(b)(13)(iii) provides specific requirements for caution signal used at tank car unloading points and operations. The last sentence of this provision is revoked as being inconsequential because it specifies the colors to be used on the caution sign.

Paragraph 1910.111(c) provides regulations for systems utilizing stationary, non-refrigerated storage containers. OSHA has examined the evidence and the comments received and determined that the provision proposed for revocation in paragraph 1910.111(c) may be revoked because it is concerned with property protection.

Paragraph 1910.111(c)(4)(ii) requires that the corrosion-resistant coating of storage containers be put in good condition, before they are reinstalled underground. The first sentence of this provision is revoked because it is directed toward protection of property rather than employee safety.

Paragraph 1910.111(d) prescribes regulations for systems utilizing containers with the storage of anhydrous ammonia under refrigerated conditions. OSHA has examined the evidence and the comments received and determined that the provision proposed for revocation in paragraph 1910.111(d) may be revoked because it addresses the protection of property; namely, the anhydrous ammonia in the system.

Paragraph 1910.111(d)(12)(ii) requires that an oil separator be installed in the discharge line of the compressor used in an anhydrous ammonia refrigeration system. This provision is revoked because it provides design requirements for the oil separator, and insures its performance in preventing oil contamination of the anhydrous ammonia. These design requirements are provided to insure product quality rather than employee safety.

SUBPART I—PERSONAL PROTECTIVE EQUIPMENT

§ 1910.134 *Respiratory protection.* This section contains an advisory provision which is in the form of a non-mandatory recommendation.

A comment received objected to the revocation of paragraph 1910.134(g)(3)(iii) which recommends the location of markings on respirator canisters. OSHA disagrees with the commenter because all respirators used to meet OSHA standards will continue to be required to be approved by NIOSH or its predecessor. NIOSH certification criteria mandates in 30 CFR 11.153 that such marks be on canisters before approval is granted. Therefore, para-

graph 1910.134(g)(3)(iii) is revoked because effective regulation is provided by NIOSH.

SUBPART J—GENERAL ENVIRONMENT CONTROLS

§ 1910.141 *Sanitation.* Paragraph 1910.141(b)(1)(ii) provides construction specification for drinking fountain surfaces. A number of commenters stated that such detailed specifications were unnecessary to assure sanitary drinking fountains. However, other commenters believed that drinking fountains were not adequately covered by other general standards and therefore were important to employee health. OSHA has reviewed the arguments and has concluded that such detailed specifications are unnecessary and that the requirement for potable water, paragraph 1910.141(b)(1)(i), is sufficiently broad in scope to address unsanitary drinking fountains. Therefore, paragraph 1910.141(b)(1)(ii) is revoked.

Ice in contact with drinking water is required to be made of potable water and kept in a sanitary condition by paragraph 1910.141(b)(1)(iv). Although some commenters believed this specification was necessary to assure clean water, OSHA does not agree that this provision is needed. Paragraph 1910.141(b)(1)(i) already requires potable water, and any ice made from non-potable water would by definition contaminate the water into which it was placed and render this water non-potable. Therefore paragraph 1910.141(b)(1)(iv) is revoked.

Paragraph 1910.141(b)(1)(vi) prohibits the use of the common drinking cup and other common utensils. A number of commenters pointed to the use of common utensils as a source of the spread of disease. OSHA has reviewed the comments and decided to retain this provision in the interest of worker protection.

Paragraph 1910.141(b)(1)(vii) provides for sanitary containers for unused drinking cups and for receptacles for used cups. A number of commenters considered this provision to be a component of the preceding requirement prohibiting a common drinking cup. However, OSHA regards this paragraph as a separable provision and one which should be revoked because it adds unnecessary detail and is inconsequential.

Paragraph 1910.141(c)(1)(iv) requires an increase in the number of toilet facilities in accordance with the number of non-employees who are permitted use of the facilities. Although a number of commenters opposed revocation of this provision, OSHA has concluded that agency authority in this area should extend only to requiring minimum numbers of facilities for employees. Use of such facilities in a

place of employment by the public would be more generally a problem of public health, and any additional requirements for such shared facilities beyond the OSHA provisions would appropriately fall under the purview of local or state building codes or public safety and health authorities. Further, this particular provision is in large part inconsequential in that the provision lacks substantive requirements appropriate for mandatory enforcement by this agency with respect to determining the relative usage of the facilities by the public and the number of additional water closets that would therefore be necessary.

Toilet paper and holders are required for every water closet by paragraph 1910.141(c)(1)(v). Paragraph 1910.141(c)(1)(vi) requires covered receptacles in toilet rooms used by women. The Agency has considered the arguments for and against the retention of these provisions, and as a matter of policy has adjudged them to encumber this section with unnecessary detail.

Paragraph 1910.141(c)(1)(vii) is a requirement for a minimum number of lavatories for toilet facilities. Because paragraph 1910.141(d)(1)(i) requires lavatories in all places of employment, paragraph 1910.141(c)(1)(vii) is considered as being adequately covered by other general standards. Therefore, OSHA has determined that this provision should be revoked.

Paragraph 1910.141(c)(2)(ii) and 1910.141(c)(2)(iii) are concerned with the construction details of toilet rooms and paragraphs 1910.141(c)(3)(i), 1910.141(c)(3)(ii) and 1910.141(c)(3)(iii) are concerned with toilet facilities. OSHA has decided to revoke these provisions on the ground that they add unnecessary and non-essential detail.

The portion of paragraph 1910.141(d)(2)(i) and Table J-2 of that section which are proposed for revocation are concerned with the number of lavatories required relative to the number of employees. OSHA had reviewed the comments for and against the retention of these provisions and has determined that these provisions contain unnecessary detail. The remaining requirements for lavatories in sub-section 1910.141(d)(2) are considered adequate in addressing the need for washing facilities in a place of employment.

Paragraph 1910.141(d)(2)(v) requires that receptacles be provided for used hand towels and paragraph 1910.141(d)(2)(vi) and 1910.141(d)(2)(vii) are concerned with specifications for warm air blowers. There was relatively little interest in these provisions by commenters. Paragraphs 1910.141(d)(2)(v) and 1910.141(d)(2)(vi) add unnecessary detail and

paragraph 1910.141(d)(2)(vii) is an unnecessary cross reference to Subpart S which contains the necessary provisions. Therefore, these three paragraphs are revoked.

Upon reexamination of the evidence OSHA has determined that, in the best interest of worker protection, the following provisions in 1910.141 should not be revoked.

Paragraph 1910.141(c)(1)(i)—Toilet Facilities—General.

Table J-1—Minimum number of water closets.

Paragraph 1910.141(c)(1)(ii)—Toilet Facilities—General.

Paragraph 1910.141(c)(2)(i)—Construction of toilet rooms.

Paragraph 1910.141(f)—Clothes drying facilities.

Paragraph 1910.141(g)(3)—Waste disposal containers.

§ 1910.143 *Nonwater carriage disposal systems.* Section 1910.143, which was proposed for revocation in its entirety, contains very detailed specifications for toilet facilities which may be used where water closets are not feasible. Comments in favor of revocation said that OSHA should not be involved with sanitary facilities in as much as general public health and sanitation are primary concerns of State and local authorities. Other comments argued that these standards are necessary to protect workers where local authorities have not issued comparable regulations.

The Agency has reviewed the comments and examined the evidence and has determined to revoke section 1910.143 in its entirety. Hazards related to inadequate nonwater carriage disposal systems or to the lack of such sanitary facilities have an intrinsic relationship to community oriented health problems rather than being limited solely to those of the workplace. Standards or specifications relating to such facilities are more properly within the purview and expertise of community or State public health officials who can determine the disposal systems most appropriate and acceptable for the local environment.

§ 1910.144 *Safety color code for marking physical hazards.* Section 1910.144 is concerned with the use of color only for equipment and the surfaces of various structures. Employee safety is not enhanced by such unnecessarily detailed requirements for these various colors and applications.

The majority of comments received object to the revocation of these requirements. OSHA disagrees with these commenters because the requirements in 1910.145 which are being retained will provide for adequate recognition of hazards. The colors specified in the color coding standard when used solely by themselves are not very effective since they have no criteria

for the hue and, therefore, no standardization in the physical application of color coding. The protection of employees can be better addressed by the use of signs where color and legend are used. Additionally, color by itself may cause those who are visually handicapped (color blind) to fail to understand the intended message.

An example of the unnecessary detail in the standard is the use of red only for fire exits. There are several model buildings codes and many local fire and building regulations that require or permit green exit signs, thus creating a conflict with the OSHA requirements. Additionally, Subpart E, Means of Egress, 1910.37(q)(4) states that, "Every sign shall be distinctive in color and shall provide contrast with the decoration, interior finish, or other signs." This allows for flexibility and research innovation, such as the determination of an appropriate color in smoke conditions.

Another example is that other designations and not only the color green as required in 1910.144(a)(4) could serve the purpose of indicating "safety" and the location of first aid equipment (such as the cross symbol). In 1910.144(a)(5) the blue color requirements that caution against the starting, use, or movement of equipment, with no mention of how to employ the color, could be served more clearly by utilizing accident prevention signs or tags required in 1910.145(f)(i) that are used for a "temporary means of warning all concerned of a hazardous condition * * *." The vague requirement in 1910.144(a)(6) concerning the use of purple for radiation is covered in the 1910.96, Ionizing Radiation requirements. Additionally the use of black and yellow for radiation signs is finding greater acceptance nationally.

Therefore, the following provisions are revoked for color coding because they are unnecessarily detailed.

SAFETY COLOR CODE FOR MARKING PHYSICAL HAZARDS

Paragraph 1910.144(a)(1)(i)(a) is revoked.

Paragraph 1910.144(a)(1)(i)(b) is revoked.

Paragraph 1910.144(a)(1)(i)(c) is revoked.

Paragraph 1910.144(a)(1)(i)(d) is revoked.

Paragraph 1910.144(a)(1)(i)(e) is revoked.

Paragraph 1910.144(a)(1)(i)(f) is revoked.

Paragraph 1910.144(a)(1)(i)(g) is revoked.

Paragraph 1910.144(a)(1)(i)(h) is revoked.

Paragraph 1910.144(a)(1)(i)(i) is revoked.

Paragraph 1910.144(a)(1)(i)(j) is revoked.

Paragraph 1910.144(a)(1)(i)(k) is revoked.

Paragraph 1910.144(a)(2) is revoked.

Paragraph 1910.144(a)(4) is revoked.

Paragraph 1910.144(a)(5) is revoked.

Paragraph 1910.144(a)(6) is revoked.

Paragraph 1910.144(a)(7) is revoked.

Paragraph 1910.144(b) is revoked.

Upon reexamination of the evidence, OSHA has determined that, in the best interest of worker protection, the following provisions in 1910.144 should not be revoked:

Paragraph 1910.144(a)(1)(i)—Red.

Paragraph 1910.144(a)(1)(ii)—Danger.

Paragraph 1910.144(a)(1)(iii)—Stop.

Paragraph 1910.144(a)(3)—Yellow.

§ 1910.145 *Specifications for accident prevention signs and tags.* Section 1910.145 contains a large number of detailed requirements for the design, application, and use of signs and symbols for accident prevention. Comments were received objecting to the revocation of any of the provisions contained in this section. Several commenters objected to the loss of the standardization of accident prevention signs and tags. Additionally, several objected to the possibility of the employees not being able to recognize the purpose of a sign because of a less specified standard. OSHA disagrees with these commenters because accident prevention signs and tags can be designed and applied in a manner different from that specified in this section, and the new sign will be as effective as a sign designed in conformance with the detailed specification requirements of section 1910.145.

For example, table J-2 includes dimensional specifications for caution signs. This table is unnecessarily detailed and restrictive for sign design, thereby preventing innovative and more effective designs from being acceptable.

As another example, paragraph 1910.145(d)(6)(ii) requires the use of a specific format and standard sizes for danger signs. Other equally acceptable methods exist for designing danger signs. Therefore, the following provisions are revoked because they are unnecessarily detailed:

Paragraph 1910.145(d)(3)(i).

Paragraph 1910.145(d)(3)(ii).

Paragraph 1910.145(d)(3)(iii).

Paragraph 1910.145(d)(4)(ii).

Table J-1.

Table J-2.

Paragraph 1910.145(d)(5).

Paragraph 1910.145(d)(6)(ii).

Figure J-1.

Figure J-2.

Figure J-3.

Figure J-4.

Figure J-5.

Figure J-6.

Figure J-7.
 Paragraph 1910.145(d)(7)(i).
 Paragraph 1910.145(d)(7)(ii).
 Paragraph 1910.145(d)(8).
 Paragraph 1910.145(d)(9).
 Paragraph 1910.145(d)(11).
 Paragraph 1910.145(e)(1).
 Paragraph 1910.145(e)(3).
 Figure J-9.
 Paragraph 1910.145(e)(5).
 Paragraph 1910.145(e)(6).
 Paragraph 1910.145(e)(7).
 Paragraph 1910.145(e)(8).
 Paragraph 1910.145(f)(7)(i).
 Figure J-10.
 Figure J-11.
 Figure J-12.
 Figure J-13.
 Figure J-14.
 Figure J-15.
 Paragraph 1910.145(f)(7)(ii).
 Paragraph 1910.145(f)(8)(i).
 Table J-3.
 Table J-4.

There are a number of paragraphs which make reference to the unnecessarily detailed tables, figures, and paragraphs which are being revoked. For this reason, the following paragraphs are amended as shown to eliminate reference to revoked provisions:

Paragraph 1910.145(d)(1) is amended as follows:

(d) *Sign design.* (1) All signs shall be furnished with rounded or blunt corners and shall be free from sharp edges, burrs, splinters, or other sharp projections. The ends or heads of bolts or other fastening devices shall be located in such a way that they do not constitute a hazard.

Paragraph 1910.145(e)(4) is amended as follows:

(4) *Biological hazard signs.* The biological hazard warning shall be used to signify the actual or potential presence of a biohazard and to identify equipment, containers, rooms materials, experimental animals, or combinations thereof, which contain or are contaminated with viable hazardous agents. For the purpose of this paragraph the term "biological hazard," or "biohazard," shall include only those infectious agents presenting a risk or potential risk to the well-being of man. The symbol design shall be a fluorescent orange or orange-red color. Background color is optional as long as there is sufficient contrast for the symbol to be clearly defined. Appropriate wording may be used in association with the symbol to indicate the nature or identity of the hazard, name of individual responsible for its control, precautionary information, etc., but never should this information be superimposed on the symbol.

Paragraph 1910.145(f)(4)(i) is amended as follows:

(4) *Danger tags.* (i) Danger tags should be used only where an immediate hazard exists. There should be no variation in the type of design of tags posted or hung to warn of specific dangers.

Paragraph 1910.145(f)(5)(i) is amended as follows:

(5) *Caution tags.* (i) Caution tags should be used only to warn against potential hazards or to caution against unsafe practices.

Paragraph 1910.145(f)(6) is amended as follows:

(6) *Out of order tags.* Out of order tags should be used only for the specific purpose of indicating that a piece of equipment, machinery, etc., is out of order and to attempt to use it might present a hazard.

Paragraph 1910.145(d)(2)(ii), which makes reference to table J-1 is revoked.

Paragraph 1910.145(f)(1)(ii) contains a requirement related to property damage which is not within the scope of the Occupational Safety and Health Act. For this reason paragraph (f)(1)(ii) is amended as follows:

(ii) The purpose of this paragraph is to establish a set of specifications for tags based on experience and previous use. The tags are to be used in industry, mercantile establishments, or wherever such tags can be utilized to help prevent accidental injury to personnel.

Upon reexamination of the evidence OSHA has determined that in the best interest of worker protection the following provisions in 1910.145, should not be revoked.

Paragraph 1910.145(d)(2)(i)—Danger Signs.

Paragraph 1910.145(d)(4)(i)—Caution Signs.

Paragraph 1910.145(d)(6)(i)—Safety Instructions Signs.

Paragraph 1910.145(d)(11)—Symbols.

Paragraph 1910.145(f)(3)(i)—Do Not Start Tags.

Paragraph 1910.145(f)(3)(ii)—Do Not Start Tags.

Figure J-8—Poison/Electricity.

SUBPART L—FIRE PROTECTION

§ 1910.157 *Portable fire extinguishers.* Section 1910.157 contains several requirements which specify the exact manner to be used in mounting portable fire extinguishers and the exact manner to be used in distributing the extinguishers throughout the workplace.

For example, paragraphs 1910.157 (a)(5), (a)(6), (a)(7), and (a)(8) require specific methods of mounting extinguishers depending upon weight, height, which way instructions face, or what type of location is selected.

Some commenters disagree with the revocation of these requirements on the basis that extinguisher mounting and ease of handling is of prime consideration in fire prevention. Even though OSHA agrees that extinguisher mounting criteria are important, it also believes that such detailed requirements for extinguisher mounting are unnecessary; further, OSHA believes that paragraphs 1910.157 (a)(1), (a)(2), (a)(3), and (a)(4) provide suffi-

cient regulation of extinguisher mounting to insure adequate employee safety.

The majority of commenters agree with OSHA that these specific provisions for the mounting of portable fire extinguishers can be revoked because they are inconsequential and are adequately covered elsewhere by another OSHA standard. Accordingly, the following paragraphs are revoked:

Paragraph 1910.157(a)(5).

Paragraph 1910.157(a)(6).

Paragraph 1910.157(a)(7).

Paragraph 1910.157(a)(8).

Certain paragraphs of section 1910.157 contain requirements which are specifically directed toward property protection. For example, paragraph 1910.157(c)(1)(iii) calls for "required building protection" to be provided by certain types of extinguishers. Paragraph 1910.157(c)(1)(v) regulates extinguishers which have been "provided for building protection." Paragraph 1910.157(c)(1)(ii) contains certain wording which applies to building protection.

Only one commenter opposed the revocation of these property protection provisions on the basis that requirements for property protection may have an affect on employee safety. All other commenters support the revocation of those provisions which address property protection. Therefore, OSHA is amending paragraph 1910.157(c)(1)(ii) by striking the words "both the building structure, if combustible and", and is revoking paragraphs 1910.157 (c)(1)(iii) and (c)(1)(v) because they are directed toward property protection.

Upon reexamination of the evidence, OSHA has determined that in the best interest of worker protection, the following provisions in section 1910.157 should not be revoked:

Paragraph 1910.157(d)(3)(iv)—fire extinguisher tag.

Paragraph 1910.157(d)(4)(vii)—second sentence—corrosion of water pail/extinguisher.

Paragraph 1910.157(d)(4)(viii)—record tag for hydrostatic test.

§ 1910.158 *Standpipe and hose systems.* Paragraph 1910.158(b)(2)(i) requires standpipes for class I service to be provided with 2½ inch hose connections on each floor. However, class I standpipe service is for use by fire departments and those trained in handling heavy fire streams (2½" hose). Class I service is directed toward protection of the building and not intended to be used by employees.

One commenter opposed the revocation of this paragraph but gave no reason. Another commenter opposed the revocation of this paragraph because it is based on a consensus standard; the commenter believes that revocation would result in less fire protec-

tion. However, all other commenters agree with OSHA that this provision is directed toward property protection and can be revoked. Additionally, class I standpipe systems are regulated by local building code and fire officials. Accordingly, paragraph 1910.158(b)(2)(i) is revoked.

Paragraph 1910.158(c)(1) addresses minimum water supplies for class I standpipe service. As stated previously, class I standpipe service is not intended to be used by employees. Instead, it is directed toward property protection and used by fire departments and those trained in handling heavy fire streams. Therefore, because class I standpipe systems are directed toward property protection, and because these systems are regulated by local building codes and fire officials, paragraphs 1910.158(c)(1)(i), 1910.158(c)(1)(ii), and 1910.158(c)(1)(iii) are revoked.

Paragraph 1910.158(c)(4) specifies requirements for standpipe fire department connections. A few commenters opposed revocation of this paragraph because they believe fire department connections for class I standpipe systems are essential to employee safety. However, the majority of commenters agree with OSHA that this paragraph is directed more toward property protection than toward employee safety. Additionally, requirements for fire department connections are regulated by building code officials and local fire officials. Therefore, paragraph 1910.158(c)(4), which prescribes requirements for fire department connections, is revoked in its entirety. This includes paragraphs 1910.158(c)(4)(i), 1910.158(c)(4)(ii), 1910.158(c)(4)(iii), 1910.158(c)(4)(iv), 1910.158(c)(4)(v), 1910.158(c)(4)(vi), 1910.158(c)(4)(vii), 1910.158(c)(4)(viii), 1910.158(c)(4)(ix), 1910.158(c)(4)(x), and 1910.158(c)(4)(xi).

§ 1910.159 *Automatic sprinkler systems.* Section 1910.159 contains detailed requirements for fire department connections used to provide auxiliary water supplies to automatic sprinkler systems.

Comments were received which support the revocation of paragraph (b) of this section. OSHA agrees with these commenters because paragraph (b) applies to sprinkler system equipment designed primarily for property protection which will be used by persons other than employees (i.e., the public fire department). Employee evacuation at the time of a fire would limit employee exposure to the hazards needing automatic sprinkler protection and the auxiliary water supply provided by fire department connections which would therefore be used for property protection and fire control.

Therefore, the following paragraphs are revoked because they are directed

toward property protection: 1910.159(b)(1) which concerns the pipe size on fire department connections; 1910.159(b)(2)(i) which concerns the use of approved straightaway check valves on fire department connections; 1910.159(b)(2)(ii) which concerns not using shutoff valves on fire department connections; 1910.159(b)(3) which concerns the use of proper support for fire department connections; 1910.159(b)(4)(i) which concerns the use of approved hose connections for fire department connections; 1910.159(b)(4)(ii) which concerns the compatibility of hose couplings on fire department connections; 1910.159(b)(4)(iii) which concerns the use of caps on hose connections on fire department connections; 1910.159(b)(4)(iv) which concerns the location and arrangement of hose connections for fire department connections; and, 1910.159(b)(4)(v) which concerns the designation of hose connections on fire department connections.

§ 1910.160 *Fixed dry chemical extinguishing systems.* Section 1910.160 contains a requirement for an inspection report of a dry chemical system to be filed with the employer.

Comments were received which objected to the deletion of this requirement. OSHA disagrees with these comments because the location of an inspector's report is inconsequential to employee safety as long as inspections are conducted. Employee protection is insured by paragraphs 1910.160(c)(1)(i) and 1910.160(c)(1)(ii) which require that inspections be conducted. Therefore, paragraph 1910.160(c)(1)(iii) is revoked as inconsequential to employee safety since it only requires that the inspector file his report with the employer.

SUBPART N—MATERIALS HANDLING AND STORAGE

§ 1910.176 *Handling materials—general.* Paragraph 1910.176(d) requires proper drainage in those areas where materials are handled by employees. OSHA has reviewed the evidence and the comments received and determined that this paragraph should be revoked. This provision is adequately covered by the requirements of paragraph 1910.22(a)(2).

§ 1910.178 *Powered industrial trucks.* Paragraph 1910.178(q)(11) requires only glycol base products to be used as an antifreeze in an engine cooling system. Several commenters stated that this provision should be retained because it will prevent the use of such coolants as alcohol. Another commenter stated that one type of antifreeze should not be a requirement, since others are available. OSHA has reviewed the evidence and the comments received and determined that this paragraph should be

revoked because it is directed at protecting property, that is, preventing engine coolant from freezing and cracking the engine.

Upon reexamination of the evidence, OSHA has determined that, in the best interest of worker protection, the following provisions in 1910.178 should not be revoked:

1910.178(a)(4)—modification of trucks.

1910.178(n)(5)—railroad track consideration.

1910.178(q)(6)—altering trucks.

§ 1910.179 *Overhead and gantry cranes.* Upon reexamination of the evidence, OSHA has determined that, in the best interest of worker protection, the following provisions in 1910.179 should not be revoked:

1910.179(h)(2)(i)—hoisting ropes.

1910.179(h)(2)(ii)—socketing ropes.

1910.179(h)(2)(v)—sparing clips.

1910.179(h)(2)(vi)—swaged fittings.

1910.179(h)(2)(viii)—replacement rope.

1910.179(h)(4)—hooks.

1910.179(j)(2)(vii)—inspection of rope reeving.

§ 1910.181 *Derricks.* Paragraph 1910.181(f)(2)(i)(g) requires that welding repairs to a derrick be approved by an appointed person. One commenter suggested that we retain this provision, while another suggested that we modify it to require reinspection of derricks on a scheduled frequency. OSHA has considered the evidence and comments received and determined that the paragraph should be revoked because the requirement is inconsequential.

Paragraph 1910.181(f)(3)(iii)(c) requires that pitted or burned electrical contacts should be replaced in sets, and controller parts should be lubricated according to the manufacturer's recommendation. One commenter recommended deletion of this provision, while another recommended a modification of the paragraph. The evidence and comments received on this paragraph has been examined by OSHA, and it has been determined that the paragraph should be revoked. This provision is primarily a requirement for improving the performance of electrical controls and not for enhancing employee safety.

Upon reexamination of the evidence, OSHA has determined that, in the best interest of worker protection, the following provisions in 1910.181(f) should not be revoked:

1910.181(c)(2)—nonpermanent installations.

1910.181(f)(1)—maintenance of derricks.

SUBPART O—MACHINERY AND MACHINE GUARDING

§ 1910.213 *Woodworking machinery requirements.* Section 1910.213 pre-

scribes regulations for woodworking machinery. The original proposal for revocation of four provisions, based on the criteria that they were obsolete or inconsequential, generated a very limited response. The majority of commenters favored deletion. Those comments favoring retention were based on performance of the machine rather than the safety of the employee. There were no substantive objections.

The four paragraphs identified below are revoked because the provisions are either obsolete or inconsequential and in some cases, fall into both categories. Some are obsolete due to changes within the woodworking industry which have improved or altered conditions to the extent that the hazard has been eliminated and the rule is no longer valid; others are termed inconsequential because they have no direct bearing on the safety of employees, do not contain useful information, or are intended to provide operational instructions for effective machine utilization or product acceptance.

Therefore, paragraphs 1910.213(a)(3), 1910.213(m)(2), 1910.213(s)(10), and 1910.213(s)(11) are revoked.

§ 1910.215 *Abrasive wheel machinery.* Section 1910.215 prescribes the safety regulations for abrasive wheel machinery.

The proposed revocation of three provisions in 1910.215(c)(2), on the basis that they constitute design criteria for the use of machine manufacturers, generated little response. The one objecting comment received requested retention of a paragraph because it presently discourages the use of substitute abrasive wheel flanges and forces equipment manufacturers to comply with safe design factors.

OSHA disagrees with the objecting commenter because the flanges used to support abrasive wheels are accessory tooling provided by the machine manufacturers and impractical for the employer to fabricate. Further, the design criteria is beyond the control of the employer since it was intended to provide the manufacturer with specifications necessary for the equipment to effectively perform its function.

Paragraph 1910.215(c) covers the design and material specifications regulating abrasive wheel flanges. The three paragraphs identified below are revoked because they contain design criteria intended for machine manufacturers use and do not contribute to employee safety and health.

Therefore, paragraphs 1910.215(c)(2)(i), 1910.215(c)(2)(ii), and 1910.215(c)(2)(iii) are revoked.

1910.217 *Mechanical power presses.* Paragraph 1910.217(a) contains three provisions prescribing the general requirements for coming into compli-

ance with specific portions of the power press standard.

Comments on the proposal for revocation of these paragraphs have been decidedly in favor of the action. There were no substantive objections. The three regulations that follow are revoked because they all contain effective dates that have expired and are now meaningless.

Paragraph 1910.217(a)(1), requiring new installations to be in compliance with the standard by a date that has expired, is revoked.

Paragraph 1910.217(a)(2), requiring existing installations to be in compliance with the standard by a date that has expired, is revoked.

Paragraph 1910.217(a)(3), requiring all installations to be in compliance with the standard by a date that has expired, is revoked.

Paragraph 1910.217(c) establishes the requirements for point of operations safeguarding devices used on mechanical power presses.

The proposal to revoke a portion of one provision and completely revoke three others involving the use of a sweep device because they no longer apply did not provoke many comments. There were no substantive objections. The four regulations that follow will be revoked because sweep devices as a single means of protection from the point of operation hazard are prohibited after December 31, 1976. The date after which use of the device is prohibited has passed and continued use of the performance language relating to it is no longer necessary.

Paragraph 1910.217(c)(3)(v) is amended to read, "The sweep device may not be used for point of operation safeguarding after December 31, 1976." All performance criteria for a sweep device is revoked.

Paragraph 1910.217(c)(3)(v)(a) providing performance criteria for a sweep device is revoked.

Paragraph (c)(3)(v)(b) providing performance criteria for a sweep device is revoked.

Paragraph (c)(3)(v)(c) providing performance criteria for a sweep device is revoked.

Paragraph (c)(3)(v)(d) providing performance criteria for a sweep device is revoked.

Paragraph 1910.217(f) regulates the operation of mechanical power presses in regard to the employment of minors, instruction to operators and inspection and maintenance of equipment.

The proposal for revocation of the paragraph dealing with the employment of minors did not generate very many comments. There were no substantive objections.

The following paragraph is revoked because minimum age for employment as a machine operator is subject to the

Fair Labor Standards Act, regulated by subpart E of 29 CFR part 570, and enforced by the Wage and Hour Division of the Department of Labor.

Paragraph 1910.217(f)(1) providing minimum age requirements for employment is revoked.

1910.219 *Mechanical power transmission apparatus.* Section 1910.219 contains a large number of detailed requirements for the construction of guards for all types of mechanical power transmission apparatus.

An overwhelming majority of the comments received were in favor of revocation. OSHA concurs with these commenters because those regulations being retained will still provide an adequate assurance that all mechanical power transmission apparatus will be guarded to prevent accidental contact.

Twenty-eight provisions and two tables are being revoked from section 1910.219 because they contain unnecessary detail. These provisions prescribe detailed specifications for the types of materials and methods of guarding mechanical power-transmission apparatus. Other adequate materials and methods of guarding exist. It is not OSHA's intention to limit the employer to certain materials and methods of guarding, but rather to assure adequate employee protection.

For example, paragraph 1910.219(o)(1)(i)(b) contains detailed specifications for the bracing of guards. This requirement is unnecessarily detailed because the requirements being retained in paragraph 1910.219(o)(1)(i)(a) are sufficient to insure that all guards are rigidly braced.

As another example, Table O-12 contains unnecessarily detailed requirements for the types and dimensions of materials used for guards. Other equally acceptable materials exist for guarding mechanical power transmission apparatus. Therefore, the following provisions are revoked for the design and construction of mechanical power transmission apparatus guards because they are unnecessarily detailed:

Paragraph 1910.219(l)(2) is amended by striking all the text immediately following the first complete sentence.

Paragraph 1910.219(m)(1)(iii) is revoked.

Paragraph 1910.219(m)(2) is amended by striking the words, "by one of the following methods:"

Paragraph 1910.219(m)(2)(i)(a) is revoked.

Paragraph 1910.219(m)(2)(i)(b) is revoked.

Paragraph 1910.219(m)(2)(i)(c) is revoked.

Paragraph 1910.219(m)(2)(i)(d) is revoked.

Paragraph 1910.219(m)(2)(i)(e) is revoked.

Paragraph 1910.219(m)(2)(ii) is revoked.

Paragraph 1910.219(m)(2)(iii) is revoked.

Paragraph 1910.219(n)(1) is revoked.

Paragraph 1910.219(n)(2)(i) is revoked.

Paragraph 1910.219(n)(2)(ii) is revoked.

Paragraph 1910.219(n)(3) is revoked.

Paragraph 1910.219(o) is amended by striking the words, "(For the latter, see Table O-13.)".

Paragraph 1910.219(o)(1)(i) is revoked.

Paragraph 1910.219(o)(1)(i)(b) is revoked.

Paragraph 1910.219(o)(1)(i)(c) is revoked.

Paragraph 1910.219(o)(1)(ii) is revoked.

Paragraph 1910.219(o)(2)(ii)(a) is revoked.

Paragraph 1910.219(o)(2)(ii)(b) is revoked.

Paragraph 1910.219(o)(2)(ii)(c) is revoked.

Paragraph 1910.219(o)(2)(ii)(d) is revoked.

Paragraph 1910.219(o)(2)(ii)(e) is revoked.

Paragraph 1910.219(o)(3)(ii) is revoked.

Paragraph 1910.219(o)(3)(iv) is revoked.

Paragraph 1910.219(o)(3)(v) is revoked.

Paragraph 1910.219(o)(4) is amended by striking all the text of the paragraph following the word "guard", starting with the word "construction" and ending with "pulley".

Table O-12 of Subpart O is revoked.

Table O-13 of Subpart O is revoked.

Four provisions of section 1910.219 are being revoked because they are directed primarily toward protection of property rather than that of the employee.

Twelve of the thirteen comments received pertaining to these provisions were in favor of revocation. OSHA agrees with these commenters because these provisions do not relate to employee safety but only to property protection.

For example, paragraph 1910.219(j) calls for self-lubricating bearings. The use of self-lubricating bearings would merely facilitate the protection of the machinery in use and have no effect on employee safety. Therefore, the following provisions are revoked because they are directed toward property protection:

Paragraph 1910.219(d)(5) is revoked.

Paragraph 1910.219(j) is amended by striking the words, "Self lubricating bearings are recommended and."

Paragraph 1910.219(k)(3) is revoked.

Paragraph 1910.219(p)(6)(i) is revoked.

Two provisions of section 1910.219 are being revoked because they pertain to guarding obsolete types of mechanical power transmission apparatus. There were few comments objecting to the revocation. No comments were substantive.

The following two paragraphs pertaining to governor balls and continuous rope drives are revoked:

Paragraph 1910.219(b)(4) is revoked.

Paragraph 1910.219(e)(2)(v) is revoked.

Paragraph 1910.219(c)(5) provides regulations pertaining to power transmission apparatus located in basements. One section of this paragraph was proposed for revocation because it was adequately covered by other standards. Most of the comments agreed with OSHA. There were no substantive objections.

The following paragraph requiring the footing around power transmission apparatus to be dry, firm and level is revoked because it is adequately covered by the general housekeeping requirements in section 1910.22.

Paragraph 1910.219(c)(5)(iv) is revoked.

Upon reexamination of the evidence, OSHA has determined that, in the best interest of worker protection, the following provision in paragraph 1910.219(c) should not be revoked:

Paragraph 1910.219(c)(5)(v)—Protection for the oiler.

SUBPART P—HAND AND PORTABLE POWERED TOOLS AND OTHER HAND-HELD EQUIPMENT

§ 1910.241 Definitions. Paragraph 1910.241(c) defines eleven power lawnmower terms. OSHA has reviewed the evidence and the comments received and determined that this paragraph should be revoked. These definitions contain unnecessary detail because the terms defined are in common usage. In addition, paragraph 1910.243(e)(1)(i) references "American National Standard Safety Specifications for Power Lawnmowers, ANSI B71.1-1968," which is the source of these definitions. Therefore, the following provisions, which define specific power lawnmower terms, are revoked because they are unnecessarily detailed:

Paragraph 1910.241(c)(1)—Blade Tip Circle.

Paragraph 1910.241(c)(2)—Guards.

Paragraph 1910.241(c)(3)—Catcher Assemblies.

Paragraph 1910.241(c)(4)—Walk-Behind Mower.

Paragraph 1910.241(c)(5)—Operator Area, Walk-Behind Mower.

Paragraph 1910.241(c)(6)—Power Reel Mower.

Paragraph 1910.241(c)(7)—Power Rotary Mower.

Paragraph 1910.241(c)(8)—Lowest Blade Position.

Paragraph 1910.241(c)(9)—Riding Mower.

Paragraph 1910.241(c)(10)—Sulky Type Mower.

Paragraph 1910.241(c)(11)—Dead-man Control.

§ 1910.243 Guarding of portable powered tools. Paragraph 1910.243(d)(2) prescribes regulations for explosive actuated fastening tools. OSHA has examined the evidence and the comments received, and determined that the three provisions in this paragraph proposed for amendment should be amended. The amendments would remove safety requirements which are based on the manufacturer's discretion.

Paragraph 1910.243(d)(2)(i), 1910.243(d)(2)(ii), and 1910.243(d)(2)(iii) identify the requirements of design and the characteristics of different types of explosive actuated fastening tools. In addition, these paragraphs require OSHA to enforce the addition of any safety feature the manufacturer may wish to incorporate on such tools. Due to the wording of these provisions, OSHA could not effectively challenge any safety feature added by the manufacturer.

OSHA has reviewed the comments and the evidence and determined that the three paragraphs 1910.243(d)(2)(i), 1910.243(d)(2)(ii), and 1910.243(d)(2)(iii) be amended as follows: Strike from paragraphs 1910.243(d)(2)(i) and 1910.243(d)(2)(iii) the words "and, at the discretion of the manufacturer, any additional safety feature he may wish to incorporate," and from paragraph 1910.243(d)(2)(ii) the words "at the discretion of the manufacturer."

Paragraph 1910.243(d)(3) and Table P-1 identify the requirements for loads and fasteners and contain detailed requirements for identifying the power levels of loads used in explosive actuated fastening tools, by means of a uniform color and numbering system. OSHA has examined the evidence and determined that the provisions and Table proposed for revocation in this paragraph should be revoked because they contain unnecessary detail.

The revocation will not remove the performance requirement that there be a standard means of identifying the power levels of loads used in such tools. Therefore, paragraph 1910.243(d)(3)(i) is amended by striking the last two sentences. Paragraph 1910.243(d)(3)(ii) and Table P-1 are revoked.

Upon reexamination of the evidence, OSHA has determined that, in the best interest of worker protection, the following provision in 1910.243 should not be revoked:

1910.243(e)—Power lawnmowers.

SUBPART Q—WELDING, CUTTING, AND
BRAZING

§ 1910.252 *Welding, cutting, and brazing.* This section prescribes regulations for the safety and health of employees engaged in welding, cutting, and brazing and any other employees who may be exposed to the hazards created by such activities.

OSHA has determined that some of the requirements contained in this section are not necessary for the safety and health of the employee.

A total of 107 comments were received on the proposed amendment of the section, with some commenting on more than one provision. Each comment was considered by OSHA in making its decision on the final rule. A discussion of the comments with OSHA's disposition of them follows.

Several comments were made on subjects not contained in the proposal. Several commenters recommended re-writing of portions or all of some of the rules. These comments dealt with subject matter which is outside of the scope of the proposal and are not discussed.

There were three comments received on the proposal to amend paragraph 1910.252(a)(4)(iii)(b) concerned with servicing piping systems by striking the first sentence thereof. All three commenters were in agreement with the proposed amendment.

OSHA has determined that the striking of the first sentence would not adversely affect the safety of employees. Since this sentence is only informational in nature, it is not enforceable and is inconsequential. Paragraph 1910.252(a)(4)(iii)(b) is therefore amended by striking the first sentence.

Ten comments were received on the proposal to revoke paragraph 1910.252(a)(5)(v)(b); colors for hose and hose connections. One agreed with the proposal as written and nine were opposed. All of the comments opposed stated one or both of the following reasons as to why they opposed the revoking of paragraph 1910.252(a)(5)(v)(b): (a) That color coding of acetylene, oxygen, and air hoses is a universally accepted practice in welding; (b) That removing a requirement for color coding of hoses could result in the mixing of the gases, creating a serious hazard to the employee.

Paragraph 1910.252(a)(5)(v)(b) is only informational in nature and does not contain any requirements for color coding of hoses. It only states a generally recognized practice; it is unenforceable and is of inconsequential value to the standard. For these reasons OSHA does not agree with the recommendations of the commenters. Paragraph 1910.252(a)(5)(v)(b) is therefore revoked.

There were seven comments regarding the amendment of paragraph 1910.252(a)(5)(vi)(d) concerned with union nuts and connections on regulators by striking the last sentence. Two of the commenters favored the proposal and five of the commenters were opposed. All five of the commenters who were opposed took the position that destroying the nuts and connectors would prevent other employees from using faulty equipment. OSHA feels that adequate protection remains in the portion of the paragraph being retained and the striking of the sentence as proposed would not have adverse effect upon the safety of employees since the requirement is of inconsequential value to the standard. Paragraph 1910.252(a)(5)(vi)(d) is therefore amended by striking the last sentence.

There were three comments received on the amendment of paragraph 1910.252(a)(6)(iv)(b)(1) concerned with venting of acetylene generators. Two of the commenters agreed with the proposed amendment. One commenter was opposed to the amendment. The commenter who opposed revocation stated that the proper construction of a vent pipe is considered a safety workman's item and that broken and corroded pipe can discharge acetylene into the working space.

OSHA is of the opinion that to burden the standard with unnecessary details of vent pipe construction tends to inhibit those who seek better means of constructing vent pipes. The provision of adequate venting remains in the standard, thus assuring employee protection. Paragraph 1910.252(a)(6)(iv)(b)(1) is therefore amended by striking all of the provision after "each generator shall be provided with a vent pipe." For these reasons, the proposed amendment is adopted.

There were four comments received on the proposed amendment to paragraph 1910.252(a)(6)(vi)(a)(7); outside generation houses and inside generation rooms for stationary acetylene generators. One commenter recommended that the words "of ample size" be defined. OSHA has determined that the words "of ample size" are vague in meaning and of no consequence for the purposes of the standard; therefore, paragraph 1910.252(a)(6)(vi)(a)(7) is amended by striking the words "of ample size."

Two commenters objected to the revocation of paragraph 1910.252(a)(7)(ii)(c); calcium carbide storage, expressing concern about the safety of workers in adjacent buildings.

OSHA is of the opinion that this type of requirement is addressed to public safety and/or protection of property, neither of which is properly the function of OSHA. OSHA is of the further opinion that this type of protection is best afforded by local au-

thorities; therefore, this paragraph is amended by striking the second sentence.

Two commenters objected to the revocation of paragraph 1910.252(a)(7)(iii)(d); storage outdoors. The reasons they stated were the protection of adjacent buildings and the employees therein. OSHA disagrees, since this paragraph is concerned with public safety and/or protection of property. The paragraph is therefore revoked.

There was no public comment received on paragraphs 1910.252(a)(8)(i) thru (a)(8)(ii)(i)(3) concerning public exhibitions and demonstrations which were proposed for revocation. These paragraphs contain many detailed requirements for public exhibitions and demonstrations, all of which relate to protection of the public, rather than employees. The following paragraphs are therefore revoked:

Paragraph 1910.252(a)(8)(i).
Paragraph 1910.252(a)(8)(ii)(a).
Paragraph 1910.252(a)(8)(ii)(b).
Paragraph 1910.252(a)(8)(ii)(c).
Paragraph 1910.252(a)(8)(ii)(d).
Paragraph 1910.252(a)(8)(ii)(e).
Paragraph 1910.252(a)(8)(ii)(f).
Paragraph 1910.252(a)(8)(ii)(g)(1).
Paragraph 1910.252(a)(8)(ii)(g)(2).
Paragraph 1910.252(a)(8)(ii)(h).
Paragraph 1910.252(a)(8)(ii)(i)(1).
Paragraph 1910.252(a)(8)(ii)(i)(2).
Paragraph 1910.252(a)(8)(ii)(i)(3).

Four comments were received on the proposed amendment to paragraph 1910.252(b)(2)(iv)(b) concerned with control handles for arc welding machines. They stated that retention of the requirement to easily grasp control handles with a gloved hand would make it more convenient for the welder to grasp the wheel or control handles. Two commenters thought that revocation of the requirement could result in a hazard in an emergency but did not support their contention with any data or other pertinent information.

OSHA is of the opinion that this is a requirement concerned with the convenience of the employee. Lacking any substantial evidence to the contrary, paragraph 1910.252(b)(2)(iv)(b) is hereby amended by striking the last sentence.

There were two comments received concerning the proposed amendment to paragraph 1910.252(c)(3)(iii) concerned with the fabrication of a clevis used for attachment to safety chains, both in agreement with the proposal. OSHA has determined that the information proposed for deletion is obsolete. Paragraph 1910.252(c)(3)(ii) is hereby amended by striking the first sentence.

Thirteen comments were received concerning the proposed revocation of paragraph 1910.252(c)(5); hazards and

precautions. Several of the commenters stated that the paragraph should be retained because it required a job hazard analysis to be made or that it related to job hazard analysis in welding. One commenter stated that job hazard analysis is an accepted safety engineering technique. None of the commenters supplied any material, information or data to support their contentions that the requirement should be retained.

Job hazard analysis is one of many techniques that can produce such information. OSHA believes that the requirement of one technique to the exclusion of all others may inhibit the use of newer or alternate methods. This could have a retarding effect upon the development of newer and better technology. The freezing of the state-of-the-art by prescribing a single specification would place undue restraints on those who wish to advance the state-of-the-art or raise the level of safety voluntarily. For these reasons, the recommendations of the commenters are not adopted. Paragraph 1910.252(c)(5) is therefore revoked.

Paragraph 1910.252(e)(3)(ii) contains a great many detailed requirements for protective clothing to be used by welders and was proposed for revocation in its entirety. Since all the requirements relate to the same specific subject matter they are consolidated for the purpose of discussion.

A significant number of comments were received stating that the requirements should be retained because they related to specified protective clothing for welders. OSHA has determined that all of the requirements proposed to be revoked are adequately covered by other general standards, specifically, Subpart I—Personal Protective Equipment, section 1910.132, general provisions, paragraphs 1910.132 (a), (b), and (c) and section 1910.135, occupational head protection.

In view of the fact that none of the commenters furnished any substantial information or facts to show that adequate safety is not provided by sections 1910.132 and 1910.135, the following paragraphs are hereby revoked:

- Paragraph 1910.252(e)(3)(ii).
- Paragraph 1910.252(e)(3)(ii)(a).
- Paragraph 1910.252(e)(3)(ii)(b).
- Paragraph 1910.252(e)(3)(ii)(c).
- Paragraph 1910.252(e)(3)(ii)(d).
- Paragraph 1910.252(e)(3)(ii)(e).
- Paragraph 1910.252(e)(3)(ii)(f).
- Paragraph 1910.252(e)(3)(ii)(g).
- Paragraph 1910.252(e)(3)(ii)(h).
- Paragraph 1910.252(e)(3)(ii)(i).

There were two comments made concerning the proposed amendment to paragraph 1910.252(f)(1)(v)(b); precautionary labels. One commenter recommended that the requirement be retained until other labeling standards

are in effect. OSHA has determined that the requirement is related to public safety, not to the employee's safety. Therefore, paragraph 1910.252(f)(1)(v)(b) is amended by striking the sentence "Keep children away when using," in the warning notice.

Upon reexamination of the evidence, OSHA has determined that, in the best interest of worker protection, the following provision in paragraph 1910.252(f) should not be revoked:

Paragraph 1910.252(f)(1)(v)—Precautionary labels.

SUBPART R—SPECIAL INDUSTRIES

§ 1910.261 *Pulp, paper and paperboard mills.* Paragraph 1910.261(d) prescribes requirements concerning the handling and storage of raw materials other than pulpwood or pulp chips in the pulp, paper and paperboard mills. OSHA has reviewed the comments received and determined that the one sentence proposed for revocation should be revoked.

Paragraph 1910.261(d)(4)(iv) is amended by revoking the last sentence of this paragraph which relates to portable roll chocks because it is concerned with comfort and convenience, and not with employee safety.

Paragraph 1910.261(k) prescribes requirements concerning paper machine rooms. OSHA has reviewed the comments received and determined that the one provision proposed for revocation should be revoked.

Paragraph 1910.261(k)(23) requires a clearance of at least 8 inches between reels of paper to enable forklift trucks to lift the reels. This paragraph is revoked because it does not relate to employee safety.

§ 1910.265 *Sawmills.* Paragraph 1910.265(c) prescribes requirements concerning building facilities and isolated equipment in sawmills. OSHA has reviewed the comments received and determined that the two requirements proposed for revocation should be revoked.

Paragraph 1910.265(c)(20)(iv) relates to possibility of clogging in exhaust pipes. It is revoked because it is directed to property protection, and not employee safety.

Upon reexamination of the evidence, OSHA has determined that in the best interest of worker protection the following provisions in 1910.265 should not be revoked:

- 1910.265(c)(7)—air requirements.
- 1910.265(f)(8)—kiln tender room.

Paragraph 1910.266(d) is concerned with equipment protective devices for stationary and mobile equipment in the pulpwood logging industry. OSHA has reviewed the comments received and determined that the one provision proposed for revocation should be revoked.

Paragraph 1910.266(d)(2)(ii) relates to design details for protective canopy. It is revoked because it is encumbered by unnecessary detail.

Paragraph 1910.266(e) is concerned with pulpwood harvesting in the pulpwood logging industry. OSHA has reviewed the comments received and determined that the two provisions proposed for revocation should be revoked.

Paragraph 1910.266(e)(1)(ii) requires that a flagman be assigned to direct traffic if trees being harvested fall into public roads. This standard is revoked because it is directed toward public safety.

Paragraph 1910.266(e)(9) requires truck drivers to check and tighten loose load binders before entering a public road. It is revoked because it is directed toward public safety.

Upon reexamination of the evidence, OSHA has determined that in the best interest of worker protection the following provisions in 1910.266(c) should not be revoked:

1910.266(c)(5)(ii)—chain saw instructions.

1910.266(c)(6)(i)—equipment instructions.

§ 1910.268 *Telecommunications.* Section 1910.268 is concerned with safety in telecommunications. Three paragraphs of this section were proposed for revocation and are now revoked. Paragraph 1910.268(f)(3) permits the use of multiply construction with contrasting colors for insulating gloves. OSHA has examined the comments received and determined that this paragraph is inconsequential and is revoked without compromising employee safety because it does not contain any requirement. It simply permits the use of multiply construction with contrasting colors in the plies.

Paragraph 1910.268(g)(2)(ii)(b)(4) is revoked as it contains detailed requirements for the placement of pocket tabs on body belts. Five commenters favored revocation claiming that it was a manufacturing detail not related to safety. One commenter simply stated that they were not in favor of revoking it but did not give any reason. OSHA has reviewed the comments received and determined that this provision is encumbered with unnecessary detail and may be revoked without jeopardizing employee safety.

Paragraph 1910.268(g)(2)(ii)(c) specifies the number of tool loops on a body belt. OSHA has examined the comments received and determined that this requirement is inconsequential and provides no determinable safety to the employee. Therefore, its revocation would not compromise employee safety.

SUBPART S—ELECTRICAL

§ 1910.308 *Application.* Paragraph 1910.308(c) states the scope of Subpart S. Paragraph 1910.308(c)(1) is amended by striking the words, "public and private." Since all buildings and other premises are either public or private, the words "public and private" are an unnecessary detail which can be deleted without affecting the scope of the standard.

SUBPART Z—TOXIC AND HAZARDOUS SUBSTANCES LIST

§ 1910.1003-1017 Paragraph (d)(1) of OSHA standards for cancer causing substances, codified under 1910.1003 thru 1910.1016, and paragraphs (e)(2) and (m)(1)(ii) of 1910.1017, require a daily roster of employees entering regulated areas where potential exposure to these agents could occur. Some commenters argued that these provisions should be retained, because such data could prove value for epidemiological research, for purposes of enforcement and as an adjunct to medical and environmental testing. Information of this general class concerning worker exposure conditions is of considerable value to epidemiological research and is useful for other purposes. However, the Agency has determined that these particular requirements, in the form as written into this group of standards, are of limited benefit in achieving the intended purposes, and therefore add unnecessary detail and do not substantially contribute to employee safety and health. Other paragraphs within these standards relating to employee exposure to these substances, for example, section (f) "Reports" and section (g), "Medical Surveillance" of 1910.1003-1017 do contain certain recordkeeping requirements which the Agency believes, are necessary and useful and therefore the Agency did not propose to revoke these sections.

These standards will be examined under the continuing review of each subpart of 1910 and revised as necessary to conform with the framework for employee exposure monitoring and recordkeeping established in more recent standards and under the Agency's general policy and procedure for the regulation of carcinogens.

V. TERMINATION OF INTERIM ENFORCEMENT POLICY

In conjunction with the proposal to revoke these standards, an interim enforcement policy was implemented by Program Directives Nos. 200-67 and 200-68 under section 9(a) of the OSH Act, 29 USC § 658(a). Under this interim enforcement policy, violations of the provisions proposed for revocation were treated as de minimis except in those instances where, as a result of

conditions at the worksite, the violations directly or immediately related to employee safety and health. See 42 FR 62735. Where a technical violation was found to exist which did not directly or immediately relate to employee safety and health, it was simply brought to the attention of the employer without need of further employer corrective action.

With the promulgation of this final rule, the interim enforcement policy is being terminated. New Program Directive No. 200-89 revokes Program Directive No. 200-68 with respect to standards involved in this rulemaking upon its effective date. Program Directive 200-67 stating OSHA's enforcement policy regarding de minimis situations generally continues in effect.

Standards proposed for revocation but not revoked will be enforced in accordance with the procedures and policies in effect prior to commencement of this rulemaking.

VI. ECONOMIC IMPACT

In accordance with Executive Order 11821 (39 FR 41501, November 29, 1974), Executive Order 11949 (42 FR 1017, January 5, 1977) and OMB Circular No. A-107 (January 28, 1975), OSHA assessed the potential economic impact of the proposal which is resulting in this final rule. Based on the six economic thresholds, OSHA concluded that the subject matter of the proposal was not a "major" action which would necessitate further economic impact evaluation or the preparation of an Economic Impact Statement. No new evidence has come before the Agency to alter its initial findings in the area of economic impact. Therefore, upon consideration of the entire record using the same criteria, OSHA has concluded that this final rule is not a "major" action, and that no Economic Impact Statement is required, and so certifies.

VII. EFFECTIVE DATE

The revocations listed herein shall be effective as of November 24, 1978.

VIII. AUTHORITY

This document was prepared under the direction of Eula Bingham, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

Accordingly, pursuant to section 4(b)(2), 6(b) and 8(c) of the Occupational Safety and Health Act of 1970 (84 Stat. 1592, 1593, 1596, 29 U.S.C. 653, 655, 657), the specific statutes referred to in section 4(b)(2), Secretary of Labor's Order No. 8-76 (41 FR 25059), and 29 CFR Part 1911, Part 1910 of Title 29, Code of Federal Regulations, is hereby amended by revoking those selected standards or por-

tions thereof 29 CFR Part 1910 which are listed below.

Signed at Washington, D.C., this 20th day of October, 1978.

These amendments are effective on November 24, 1978.

EULA BINGHAM,
Assistant Secretary of Labor.

Accordingly, Part 1910 of 29 CFR is amended as follows:

Subpart D—Walking—Working

§ 1910.23 Guarding floor and wall openings and holes [Amended]

1. Paragraph (e)(3) of § 1910.23 is revoked.
2. Paragraph (e)(3)(v)(d) of § 1910.23 is revoked.

§ 1910.24 Fixed industrial stairs [Amended]

3. Paragraph (k) of § 1910.24 is revoked.

4. Paragraph (b)(1)(i) of § 1910.25 is amended by deleting the phrases: "of the species specified in Table D-5, seasoned to a moisture content of not more than 15 percent; smoothly machined and dressed on all sides;" and "except as hereinafter provided". As amended, § 1910.25(b)(1)(i) reads as follows:

§ 1910.25 Portable wood ladders.

(b) *Materials.* (1) *Requirements applicable to all wood parts.* (i) All wood parts shall be free from sharp edges and splinters; sound and free from accepted visual inspection from shake, wane, compression failures, decay, or other irregularities. Low density wood shall not be used.

5. Paragraph (b)(1)(ii) of § 1910.25 is revoked.

6. Paragraph (b)(2)(i) of § 1910.25 is revoked.

7. Paragraph (b)(2)(ii) of § 1910.25 is revoked.

8. Paragraph (b)(2)(iii) of § 1910.25 is revoked.

9. Paragraph (b)(2)(iv) of § 1910.25 is revoked.

10. Paragraph (b)(2)(v) of § 1910.25 is revoked.

11. Paragraph (b)(3)(i) of § 1910.25 is revoked.

12. Paragraph (b)(3)(ii) of § 1910.25 is revoked.

13. Paragraph (b)(3)(iii) of § 1910.25 is revoked.

14. Paragraph (b)(4) of § 1910.25 is revoked.

15. Paragraph (b)(4)(i) of § 1910.25 is revoked.

16. Paragraph (b)(4)(ii) of § 1910.25 is revoked.

- 17. Paragraph (b)(5) of § 1910.25 is revoked.
- 18. Paragraph (c)(1)(i) of § 1910.25 is revoked.
- 19. Paragraph (c)(1)(ii) of § 1910.25 is revoked.
- 20. Paragraph (c)(1)(iii) of § 1910.25 is revoked.
- 21. Paragraph (c)(1)(iii)(a) of § 1910.25 is revoked.
- 22. Paragraph (c)(1)(iii)(b) of § 1910.25 is revoked.
- 23. Paragraph (c)(1)(iii)(c) of § 1910.25 is revoked.
- 24. Paragraph (c)(1)(iii)(d) of § 1910.25 is revoked.
- 25. Paragraph (c)(2)(i)(a) of § 1910.25 is revoked.
- 26. Paragraph (c)(2)(i)(d) of § 1910.25 is revoked.
- 27. Paragraph (c)(2)(i)(e) of § 1910.25 is revoked.
- 28. Paragraph (c)(2)(i)(g) of § 1910.25 is revoked.
- 29. Paragraph (c)(2)(i)(h) of § 1910.25 is revoked.
- 30. Paragraph (c)(2)(i)(i) of § 1910.25 is revoked.
- 31. Paragraph (c)(2)(ii)(a)(1) of § 1910.25 is revoked.
- 32. Paragraph (c)(2)(ii)(a)(2) of § 1910.25 is revoked.
- 33. Paragraph (c)(2)(ii)(b) of § 1910.25 is revoked.
- 34. Paragraph (c)(2)(ii)(c) of § 1910.25 is revoked.
- 35. Paragraph (c)(2)(ii)(c)(1) of § 1910.25 is revoked.
- 36. Paragraph (c)(2)(ii)(c)(2) of § 1910.25 is revoked.
- 37. Table D-2 of Subpart D is revoked.
- 38. Table D-3 of Subpart D is revoked.
- 39. Paragraph (c)(2)(ii)(d) of § 1910.25 is revoked.
- 40. Paragraph (c)(2)(iii)(a)(1) of § 1910.25 is revoked.
- 41. Paragraph (c)(2)(iii)(a)(2) of § 1910.25 is revoked.
- 42. Paragraph (c)(2)(iii)(b) of § 1910.25 is revoked.
- 43. Paragraph (c)(2)(iii)(c) of § 1910.25 is revoked.
- 44. Paragraph (c)(2)(iii)(c)(1)(i) of § 1910.25 is revoked.
- 45. Paragraph (c)(2)(iii)(c)(1)(ii) of § 1910.25 is revoked.
- 46. Paragraph (c)(2)(iii)(c)(2) of § 1910.25 is revoked.
- 47. Paragraph (c)(2)(iii)(c)(3) of § 1910.25 is revoked.
- 48. Paragraph (c)(2)(iv)(a) of § 1910.25 is revoked.
- 49. Paragraph (c)(2)(iv)(b) of § 1910.25 is revoked.
- 50. Paragraph (c)(2)(iv)(c) of § 1910.25 is revoked.
- 51. Paragraph (c)(2)(iv)(c)(1) of § 1910.25 is revoked.
- 52. Paragraph (c)(2)(iv)(c)(2) of § 1910.25 is revoked.
- 53. Paragraph (c)(3) of § 1910.25 is revoked.
- 54. Paragraph (c)(3)(i)(a) of § 1910.25 is revoked.
- 55. Paragraph (c)(3)(i)(b) of § 1910.25 is revoked.
- 56. Paragraph (c)(3)(i)(c) of § 1910.25 is revoked.
- 57. Paragraph (c)(3)(i)(d) of § 1910.25 is revoked.
- 58. Paragraph (c)(3)(i)(e) of § 1910.25 is revoked.
- 59. Paragraph (c)(3)(i)(f) of § 1910.25 is revoked.
- 60. Paragraph (c)(3)(i)(g) of § 1910.25 is revoked.
- 61. Paragraph (c)(3)(i)(h) of § 1910.25 is revoked.
- 62. Paragraph (c)(3)(i)(i) of § 1910.25 is revoked.
- 63. Paragraph (c)(3)(i)(j) of § 1910.25 is revoked.
- 64. Paragraph (c)(3)(ii)(b) of § 1910.25 is revoked.
- 65. Paragraph (c)(3)(ii)(c) of § 1910.25 is revoked.
- 66. Paragraph (c)(3)(ii)(d) of § 1910.25 is revoked.
- 67. Paragraph (c)(3)(iii)(b) of § 1910.25 is revoked.
- 68. Paragraph (c)(3)(iii)(c) of § 1910.25 is revoked.
- 69. Paragraph (c)(3)(iii)(d) of § 1910.25 is revoked.
- 70. Paragraph (c)(3)(iii)(e) of § 1910.25 is revoked.
- 71. Paragraph (c)(3)(iii)(f) of § 1910.25 is revoked.
- 72. Paragraph (c)(3)(iii)(g)(1) of § 1910.25 is revoked.
- 73. Paragraph (c)(3)(iii)(g)(2) of § 1910.25 is revoked.
- 74. Paragraph (c)(3)(iv)(b) of § 1910.25 is revoked.
- 75. Paragraph (c)(3)(iv)(c) of § 1910.25 is revoked.
- 76. Paragraph (c)(3)(iv)(c)(1) of § 1910.25 is revoked.
- 77. Paragraph (c)(3)(iv)(c)(2) of § 1910.25 is revoked.
- 78. Paragraph (c)(3)(iv)(c)(3) of § 1910.25 is revoked.
- 79. Paragraph (c)(3)(iv)(c)(4) of § 1910.25 is revoked.
- 80. Table D-4 of Subpart D is revoked.
- 81. Paragraph (c)(3)(v)(b) of § 1910.25 is revoked.
- 82. Paragraph (c)(3)(v)(c) of § 1910.25 is revoked.
- 83. Paragraph (c)(3)(v)(d) of § 1910.25 is revoked.
- 84. Paragraph (c)(3)(v)(e) of § 1910.25 is revoked.
- 85. Paragraph (c)(3)(v)(f) of § 1910.25 is revoked.
- 86. Paragraph (c)(3)(v)(g) of § 1910.25 is revoked.
- 87. Paragraph (c)(4) of § 1910.25 is revoked.
- 88. Paragraph (c)(4)(i) of § 1910.25 is revoked.
- 89. Paragraph (c)(4)(i)(a) of § 1910.25 is revoked.
- 90. Paragraph (c)(4)(i)(b) of § 1910.25 is revoked.
- 91. Paragraph (c)(4)(i)(c) of § 1910.25 is revoked.
- 92. Paragraph (c)(4)(i)(d) of § 1910.25 is revoked.
- 93. Paragraph (c)(4)(i)(e) of § 1910.25 is revoked.
- 94. Paragraph (c)(4)(i)(f) of § 1910.25 is revoked.
- 95. Paragraph (c)(4)(ii)(b) of § 1910.25 is revoked.
- 96. Paragraph (c)(4)(ii)(b)(1) of § 1910.25 is revoked.
- 97. Paragraph (c)(4)(ii)(b)(2) of § 1910.25 is revoked.
- 98. Paragraph (c)(4)(iii)(b) of § 1910.25 is revoked.
- 99. Paragraph (c)(4)(iii)(c) of § 1910.25 is revoked.
- 100. Paragraph (c)(4)(iii)(d) of § 1910.25 is revoked.
- 101. Paragraph (c)(5)(ii) of § 1910.25 is revoked.
- 102. Paragraph (c)(5)(iii) of § 1910.25 is revoked.
- 103. Paragraph (c)(5)(iv) of § 1910.25 is revoked.
- 104. Paragraph (c)(5)(v) of § 1910.25 is revoked.
- 105. Paragraph (c)(5)(vi)(a) of § 1910.25 is revoked.
- 106. Paragraph (c)(5)(vi)(b) of § 1910.25 is revoked.
- 107. Paragraph (c)(5)(vi)(c) of § 1910.25 is revoked.
- 108. Paragraph (c)(5)(vi)(d) of § 1910.25 is revoked.
- 109. Paragraph (c)(5)(vii)(a) of § 1910.25 is revoked.
- 110. Paragraph (c)(5)(vii)(b) of § 1910.25 is revoked.
- 111. Paragraph (c)(5)(vii)(c) of § 1910.25 is revoked.
- 112. Paragraph (c)(5)(vii)(d) of § 1910.25 is revoked.
- 113. Paragraph (c)(5)(vii)(e) of § 1910.25 is revoked.
- 114. Paragraph (c)(5)(vii)(f) of § 1910.25 is revoked.
- 115. Paragraph (d)(1)(v) of § 1910.25 is revoked.
- 116. Paragraph (d)(1)(vi) of § 1910.25 is revoked.
- 117. Paragraph (d)(1)(vii) of § 1910.25 is revoked.
- 118. Paragraph (d)(1)(viii) of § 1910.25 is revoked.
- 119. Paragraph (d)(1)(ix) of § 1910.25 is revoked.
- 120. Paragraph (d)(2)(xxi) of § 1910.25 is revoked.
- 121. Table D-5 of Subpart D is revoked.
- §1910.26 Portable Metal Ladders [Amended]
- 122. Paragraph (a)(1)(i) of § 1910.26 is revoked.
- 123. Paragraph (a)(1)(ii) of § 1910.26 is revoked.

124. Paragraph (a)(1)(iv) of § 1910.26 is revoked.

125. Paragraph (a)(1)(vi) of § 1910.26 is revoked.

126. Paragraph (a)(2)(v)(a) of § 1910.26 is revoked.

127. Paragraph (a)(2)(v)(b) of § 1910.26 is revoked.

128. Paragraph (a)(3)(i) of § 1910.26 is revoked.

129. Paragraph (a)(3)(ii) of § 1910.26 is revoked.

130. Paragraph (a)(3)(iv) of § 1910.26 is revoked.

131. Paragraph (a)(3)(v) of § 1910.26 is revoked.

132. Paragraph (a)(3)(vi) of § 1910.26 is revoked.

133. Paragraph (a)(4)(ii) of § 1910.26 is revoked.

134. Paragraph (a)(4)(iii) of § 1910.26 is revoked.

135. Paragraph (a)(4)(iv) of § 1910.26 is revoked.

136. Paragraph (a)(4)(v) of § 1910.26 is revoked.

137. Paragraph (a)(5)(ii) of § 1910.26 is revoked.

138. Paragraph (a)(5)(iii) of § 1910.26 is revoked.

139. Paragraph (a)(5)(iv) of § 1910.26 is revoked.

140. Paragraph (a)(5)(v) of § 1910.26 is revoked.

141. Paragraph (a)(5)(vi) of § 1910.26 is revoked.

142. Paragraph (b)(1) of § 1910.26 is revoked.

143. Paragraph (b)(2)(i) of § 1910.26 is revoked.

144. Paragraph (b)(2)(ii) of § 1910.26 is revoked.

145. Paragraph (b)(2)(iii) of § 1910.26 is revoked.

146. Paragraph (b)(2)(iv) of § 1910.26 is revoked.

147. Paragraph (b)(2)(v) of § 1910.26 is revoked.

148. Paragraph (b)(2)(vi) of § 1910.26 is revoked.

149. Paragraph (b)(2)(vii) of § 1910.26 is revoked.

150. Paragraph (b)(3)(i)(a) of § 1910.26 is revoked.

151. Paragraph (b)(3)(i)(b) of § 1910.26 is revoked.

152. Paragraph (b)(3)(ii) of § 1910.26 is revoked.

153. Table D-6 of Subpart D is revoked.

154. Paragraph (c)(2)(i) of § 1910.26 is revoked.

155. Paragraph (c)(2)(ii) of § 1910.26 is revoked.

156. Paragraph (c)(2)(iii) of § 1910.26 is revoked.

§ 1910.28 Safety requirements for scaffolds [Amended]

157. Paragraph (i)(2) of § 1910.28 is revoked.

158. Paragraph (v) of § 1910.28 is amended by deleting the words, "construction, alteration, demolition and".

Subpart F—Powered Platforms, Manlifts, and Vehicle-Mounted Work Platforms

§ 1910.66 Powered platforms for exterior building maintenance [Amended]

159. Paragraph (c)(20)(ii) of § 1910.66 is revoked.

160. Paragraph (c)(21)(i)(h) of § 1910.66 is revoked.

161. Paragraph (c)(21)(ii) of § 1910.66 is revoked.

162. Paragraph (c)(21)(iii) of § 1910.66 is revoked.

§ 1910.68 Manlifts [Amended]

163. Paragraph (b)(8)(vi) of § 1910.68 is revoked.

164. Paragraph (c)(7)(i)(a) of § 1910.68 is revoked.

165. Paragraph (c)(7)(iii) of § 1910.68 is amended by deleting the second sentence thereof.

Subpart G—Occupational Health and Environmental Control

§ 1910.94 Ventilation [Amended]

166. Paragraph (c)(5)(i)(b) of § 1910.94 is revoked.

167. Paragraph (c)(5)(iii) of § 1910.94 is revoked.

§ 1910.96 Ionizing radiation [Amended]

168. Paragraph (b)(5) of § 1910.96 is revoked.

169. Paragraph (e)(1)(ii) of § 1910.96 is revoked.

170. Paragraph (l)(1)(iii) of § 1910.96 is revoked.

171. Paragraph (l)(1)(iv) of § 1910.96 is revoked.

172. Paragraph (l)(2)(ii) of § 1910.96 is revoked.

173. Paragraph (l)(2)(iii) of § 1910.96 is revoked.

174. Paragraph (o)(2) of § 1910.96 is revoked.

175. Paragraph (r)(1) of § 1910.96 is revoked.

176. Paragraph (r)(2) of § 1910.96 is revoked.

177. Paragraph (r)(3)(i) of § 1910.96 is revoked.

178. Paragraph (r)(3)(ii) of § 1910.96 is revoked.

179. Paragraph (r)(4)(i) of § 1910.96 is revoked.

180. Paragraph (r)(4)(iii) of § 1910.96 is revoked.

Subpart H—Hazardous Materials

§ 1910.103 Hydrogen [Amended]

181. Table H-2 of Subpart H is amended by striking lines 13 and 14 thereof, and by deleting the words "and places of public assembly" from

the footnote to the Table designated by " * * * ".

182. Table H-4 of Subpart H is amended by striking line 12 thereof, and by striking in the footnote the words "and places of public assembly".

§ 1910.104 Oxygen [Amended]

183. Paragraph (b)(3)(xiv) of § 1910.104 is revoked.

184. Paragraph (b)(3)(xv) of § 1910.104 is revoked.

185. Paragraph (b)(3)(xvi) of § 1910.104 is revoked.

186. Paragraph (b)(3)(xvii) of § 1910.104 is revoked.

187. Paragraph (b)(3)(xviii) of § 1910.104 is amended by striking the numerical references "(xvi) and (xvii)".

§ 1910.106 Flammable and combustible liquids [Amended]

188. Paragraph (b)(1)(i)(e) of § 1910.106 is revoked.

189. Paragraph (b)(1)(ii)(a) of § 1910.106 is revoked.

190. Paragraph (b)(2)(i)(a) of § 1910.106 is revoked.

191. Paragraph (b)(2)(i)(b) of § 1910.106 is revoked.

192. Table H-5 of Subpart H is revoked.

193. Table H-6 of Subpart H is revoked.

194. Paragraph (b)(2)(i)(c) of § 1910.106 is revoked.

195. Table H-7 of Subpart H is revoked.

196. Paragraph (b)(2)(i)(d) of § 1910.106 is revoked.

197. Table H-8 of Subpart H is revoked.

198. Paragraph (b)(2)(i)(e) of § 1910.106 is revoked.

199. Table H-9 of Subpart H is revoked.

200. Paragraph (b)(2)(i)(f) of § 1910.106 is revoked.

201. Paragraph (b)(2)(iii) of § 1910.106 is revoked.

202. Paragraph (b)(2)(vii)(b)(1) of § 1910.106 is revoked.

203. Paragraph (b)(2)(vii)(b)(3) of § 1910.106 is revoked.

204. Paragraph (b)(2)(vii)(c)(5) of § 1910.106 is revoked.

205. Paragraph (b)(2)(vii)(c)(7) of § 1910.106 is revoked.

206. Paragraph (b)(2)(vii)(c)(7)(i) of § 1910.106 is revoked.

207. Paragraph (b)(2)(vii)(c)(7)(ii) of § 1910.106 is revoked.

208. Paragraph (b)(2)(vii)(c)(7)(iii) of § 1910.106 is revoked.

209. Paragraph (b)(2)(vii)(c)(7)(iv) of § 1910.106 is revoked.

210. Paragraph (b)(2)(vii)(a) of § 1910.106 is revoked.

211. Paragraph (b)(2)(vii)(b) of § 1910.106 is revoked.

212. Paragraph (b)(2)(viii)(c) of § 1910.106 is revoked.

213. Paragraph (b)(5)(vi)(e) of § 1910.106 is revoked.
214. Paragraph (d)(5)(iv)(a) of § 1910.106 is revoked.
215. Paragraph (d)(5)(iv)(b) of § 1910.106 is revoked.
216. Paragraph (d)(5)(iv)(c) of § 1910.106 is revoked.
217. Paragraph (d)(5)(iv)(d) of § 1910.106 is revoked.
218. Table H-14 is amended by striking the two headings entitled "Height" and all numbers appearing thereunder.
219. Table H-15 is amended by striking the two headings entitled "Height" and all numbers appearing thereunder.
220. Paragraph (d)(6)(ii)(a) of § 1910.106 is revoked.
221. Paragraph (e)(3)(iv)(c) of § 1910.106 is revoked.
222. Paragraph (f)(4)(ii) of § 1910.106 is revoked.
223. Paragraph (f)(4)(iii) of § 1910.106 is revoked.
224. Paragraph (f)(4)(v) of § 1910.106 is revoked.
225. Paragraph (g)(1)(ii)(c) of § 1910.106 is revoked.
226. Paragraph (g)(1)(iv) of § 1910.106 is revoked.
227. Paragraph (h)(2)(i) of § 1910.106 is revoked.
228. Table H-20 of Subpart H is revoked.
229. Paragraph (h)(2)(ii) of § 1910.106 is revoked.
230. Paragraph (h)(3)(ii)(c) of § 1910.106 is revoked.
231. Paragraph (i)(4) of § 1910.106 is amended by deleting the second sentence thereof.
- § 1910.109 Explosives and blasting agents [Amended]
232. Paragraph (a)(5) of § 1910.109 is revoked.
233. Paragraph (a)(9) of § 1910.109 is revoked.
234. Paragraph (a)(11) of § 1910.109 is revoked.
235. Paragraph (a)(20) of § 1910.109 is revoked.
236. Paragraph (a)(21) of § 1910.109 is revoked.
237. Paragraph (b)(1) of § 1910.109 is amended by striking the words "and property".
238. Paragraph (b)(2) of § 1910.109 is revoked.
239. Paragraph (b)(3) of § 1910.109 is revoked.
240. Table H-21 of Subpart R is amended by striking the three column headings entitled "Inhabited buildings, Passenger railways, and Public highways" and also striking all numbers appearing thereunder.
241. Paragraph (c)(1)(viii) of § 1910.109 is amended by striking the words "neighboring inhabited buildings, railways, highways, and".
242. Paragraph (c)(2)(iii) is amended by striking the second sentence thereof.
243. Paragraph (c)(3)(viii) of § 1910.109 is revoked.
244. Paragraph (c)(4)(iii) of § 1910.109 is amended by striking the second sentence thereof.
245. Paragraph (c)(5)(viii) of § 1910.109 is amended by the words "who shall be at least 21 years of age".
246. Paragraph (d)(1)(ii) of § 1910.109 is revoked.
247. Paragraph (d)(2)(ii)(b) of § 1910.109 is revoked.
248. Paragraph (d)(3)(i) of § 1910.109 is amended by striking the words, "physically fit, careful, capable, reliable, able to read and write the English language, and not addicted to the use, or under the influence of intoxicants, narcotics, or other dangerous drugs, and not less than 21 years of age. He shall be".
249. Paragraph (d)(3)(ii) of § 1910.109 is amended by striking the words, "bridge, tunnel, dwelling, building or" and "congregate or assemble".
250. Paragraph (e)(1)(iii) of § 1910.109 is amended by striking the words, "railway, or highway".
251. Paragraph (e)(4)(i) of § 1910.109 is revoked.
252. Paragraph (g)(2)(i) of § 1910.109 is revoked.
253. Paragraph (g)(5)(i)(c) of § 1910.109 is amended by striking the words, "Table H-21 with respect to inhabited buildings, passenger railways, and public highways and according to".
254. Paragraph (g)(5)(ii)(a) of § 1910.109 is amended by striking the words, "the provisions of Table H-21 with respect to inhabited buildings, passenger railways, and-public highways, and according to".
255. Paragraph (g)(5)(vii) of § 1910.109 is amended by striking the words "who shall be not less than 21 years of age".
256. Paragraph (g)(6)(ii) of § 1910.109 is amended by striking the words, "at least twenty-one (21) years of age who is capable, careful, reliable, and".
257. Paragraph (g)(6)(v) of § 1910.109 is revoked.
258. Paragraph (g)(6)(vii) of § 1910.109 is revoked.
259. Paragraph (g)(6)(viii) of § 1910.109 is revoked.
260. Paragraph (h)(3)(i)(a) of § 1910.109 is revoked.
261. Paragraph (h)(3)(i)(b) of § 1910.109 is revoked.
262. Paragraph (i)(1)(i)(e) of § 1910.109 is amended by striking the words, "provided that no distinct undue hazard to the public is created".
263. Paragraph (i)(1)(ii)(a) of § 1910.109 is revoked.
264. Paragraph (i)(2)(iii)(e) of § 1910.109 is amended by striking the words, "or adjoining property".
265. Paragraph (j)(3)(ii) of § 1910.109 is revoked.
266. Paragraph (j)(4)(ii) of § 1910.109 is revoked.
- § 1910.110 Storage and handling of liquified petroleum gases [Amended]
267. Paragraph (a)(17) of § 1910.110 is revoked.
268. Paragraph (a)(18) of § 1910.110 is revoked.
269. Paragraph (b)(6)(ii) of § 1910.110 is amended by striking the words, "or line of adjoining property which may be built on".
270. Paragraph (b)(6)(iv) of § 1910.110 is revoked.
271. Paragraph (b)(11)(iii)(i) of § 1910.110 is amended by striking the words, "or line of adjoining property which may be built upon".
272. Paragraph (b)(11)(iv)(g) of § 1910.110 is amended by striking the words, "or line of adjoining property which may be built upon".
273. Paragraph (b)(15)(viii)(b) of § 1910.110 is revoked.
274. Paragraph (c)(5)(iv)(a) of § 1910.110 is revoked.
275. Paragraph (c)(5)(iv)(a)(1) of § 1910.110 is revoked.
276. Paragraph (c)(5)(iv)(a)(2) of § 1910.110 is revoked.
277. Paragraph (c)(5)(iv)(a)(3) of § 1910.110 is revoked.
278. Paragraph (c)(5)(iv)(b) of § 1910.110 is revoked.
279. Paragraph (c)(5)(ix)(c) of § 1910.110 is revoked.
280. Paragraph (d)(13)(i)(b) of § 1910.110 is revoked.
281. Paragraph (d)(13)(ii)(a) of § 1910.110 is revoked.
282. Paragraph (d)(13)(iii)(b) of § 1910.110 is revoked.
283. Paragraph (d)(15) of § 1910.110 is revoked.
284. Paragraph (e)(13)(iii) of § 1910.110 is revoked.
285. Paragraph (e)(13)(iv) of § 1910.110 is revoked.
286. Paragraph (f)(3)(i) of § 1910.110 is revoked.
287. Paragraph (f)(3)(ii) of § 1910.110 is revoked.
288. Paragraph (f)(6)(i)(b) of § 1910.110 is revoked.
289. Paragraph (f)(6)(i)(d) of § 1910.110 is revoked.
290. Paragraph (g)(1) of § 1910.110 is amended by striking the words, "or public service purposes such as mobile libraries and clinics".
291. Paragraph (h)(6)(i)(a) of § 1910.110 is amended by striking the words, "and adjoining property lines which may be built upon".

§ 1910.111 Storage and handling of anhydrous ammonia [Amended]

292. Paragraph (a)(2)(xiii) of § 1910.111 is revoked.

293. Paragraph (a)(2)(xiv) of § 1910.111 is revoked.

294. Paragraph (b)(5)(iii) of § 1910.111 is revoked.

295. Paragraph (b)(5)(iv) of § 1910.111 is revoked.

296. Table H-35 of Subpart H is revoked.

297. Paragraph (b)(11)(iii) of § 1910.111 is revoked.

298. Paragraph (b)(11)(iv) of § 1910.111 is revoked.

299. Paragraph (b)(12)(vi)(f) of § 1910.111 is revoked.

300. Paragraph (b)(13)(iii) of § 1910.111 is amended by striking the last sentence thereof.

301. Paragraph (c)(4)(ii) of § 1910.111 is amended by striking the first sentence thereof.

302. Paragraph (d)(12)(ii) of § 1910.111 is revoked.

Subpart I—Personal Protective Equipment

§ 1910.134 Respiratory protection [Amended]

303. Paragraph (g)(3)(iii) of § 1910.134 is revoked.

Subpart J—General Environmental Controls

§ 1910.141 Sanitation [Amended]

304. Paragraph (b)(1)(ii) of § 1910.141 is revoked.

305. Paragraph (b)(1)(iv) of § 1910.141 is revoked.

306. Paragraph (b)(1)(vii) of § 1910.141 is revoked.

307. Paragraph (c)(1)(iv) of § 1910.141 is revoked.

308. Paragraph (c)(1)(v) of § 1910.141 is revoked.

309. Paragraph (c)(1)(vi) of § 1910.141 is revoked.

310. Paragraph (c)(1)(vii) of § 1910.141 is revoked.

311. Paragraph (c)(2)(ii) of § 1910.141 is revoked.

312. Paragraph (c)(2)(iii) of § 1910.141 is revoked.

313. Paragraph (c)(3)(i) of § 1910.141 is revoked.

314. Paragraph (c)(3)(ii) of § 1910.141 is revoked.

315. Paragraph (c)(3)(iii) of § 1910.141 is revoked.

316. Paragraph (d)(2)(i) is amended by striking the words, "in accordance with the requirements for lavatories as set forth in Table J-2 of this section. In a multiple-use lavatory, 24 lineal inches of wash sink or 20 inches of a circular basin, when provided with water outlets for each space, shall be considered equivalent to one lavatory".

317. Table J-2 of Subpart J is revoked.

318. Paragraph (d)(2)(v) of § 1910.141 is revoked.

319. Paragraph (d)(2)(vi) of § 1910.141 is revoked.

320. Paragraph (d)(2)(vii) of § 1910.141 is revoked.

§ 1910.143 Nonwater carriage disposal systems [Amended]

321. Paragraph (a)(1) of § 1910.143 is revoked.

322. Paragraph (a)(2) of § 1910.143 is revoked.

323. Paragraph (a)(3) of § 1910.143 is revoked.

324. Paragraph (a)(4) of § 1910.143 is revoked.

325. Paragraph (a)(5) of § 1910.143 is revoked.

326. Paragraph (a)(6) of § 1910.143 is revoked.

327. Paragraph (a)(6)(i) of § 1910.143 is revoked.

328. Paragraph (a)(6)(ii) of § 1910.143 is revoked.

329. Paragraph (a)(7) of § 1910.143 is revoked.

330. Paragraph (b)(1) of § 1910.143 is revoked.

331. Paragraph (b)(1)(i) of § 1910.143 is revoked.

332. Paragraph (b)(1)(ii) of § 1910.143 is revoked.

333. Paragraph (b)(1)(iii) of § 1910.143 is revoked.

334. Paragraph (b)(1)(iv) of § 1910.143 is revoked.

335. Paragraph (b)(1)(v) of § 1910.143 is revoked.

336. Paragraph (b)(1)(vi) of § 1910.143 is revoked.

337. Paragraph (b)(1)(vii) of § 1910.143 is revoked.

338. Paragraph (b)(2) of § 1910.143 is revoked.

339. Paragraph (b)(2)(i) of § 1910.143 is revoked.

340. Paragraph (b)(2)(ii) of § 1910.143 is revoked.

341. Paragraph (b)(2)(iii) of § 1910.143 is revoked.

342. Paragraph (b)(2)(iv) of § 1910.143 is revoked.

343. Paragraph (b)(2)(v) of § 1910.143 is revoked.

344. Paragraph (b)(2)(vi) of § 1910.143 is revoked.

345. Paragraph (b)(2)(vii) of § 1910.143 is revoked.

346. Paragraph (b)(2)(viii) of § 1910.143 is revoked.

347. Paragraph (c)(1) of § 1910.143 is revoked.

348. Paragraph (c)(2) of § 1910.143 is revoked.

349. Paragraph (c)(3) of § 1910.143 is revoked.

350. Paragraph (c)(4) of § 1910.143 is revoked.

351. Paragraph (c)(5) of § 1910.143 is revoked.

352. Paragraph (c)(6) of § 1910.143 is revoked.

353. Paragraph (c)(7) of § 1910.143 is revoked.

354. Paragraph (d)(1) of § 1910.143 is revoked.

355. Paragraph (d)(2) of § 1910.143 is revoked.

356. Paragraph (d)(3) of § 1910.143 is revoked.

357. Paragraph (d)(4) of § 1910.143 is revoked.

358. Paragraph (d)(5) of § 1910.143 is revoked.

359. Paragraph (d)(6) of § 1910.143 is revoked.

360. Paragraph (e)(1) of § 1910.143 is revoked.

361. Paragraph (e)(2) of § 1910.143 is revoked.

362. Paragraph (e)(3) of § 1910.143 is revoked.

363. Paragraph (e)(4) of § 1910.143 is revoked.

364. Paragraph (e)(5) of § 1910.143 is revoked.

365. Paragraph (f)(1) of § 1910.143 is revoked.

366. Paragraph (f)(2) of § 1910.143 is revoked.

367. Paragraph (f)(3) of § 1910.143 is revoked.

368. Paragraph (f)(4) of § 1910.143 is revoked.

369. Paragraph (f)(5) of § 1910.143 is revoked.

370. Paragraph (f)(6) of § 1910.143 is revoked.

371. Paragraph (g)(1) of § 1910.143 is revoked.

372. Paragraph (g)(2) of § 1910.143 is revoked.

373. Paragraph (g)(2)(i) of § 1910.143 is revoked.

374. Paragraph (g)(2)(ii) of § 1910.143 is revoked.

375. Paragraph (g)(3) of § 1910.143 is revoked.

376. Paragraph (g)(3)(i) of § 1910.143 is revoked.

377. Paragraph (g)(3)(ii) of § 1910.143 is revoked.

378. Paragraph (g)(3)(iii) of § 1910.143 is revoked.

379. Paragraph (g)(4) of § 1910.143 is revoked.

§ 1910.144 Safety color code for marking physical hazards [Amended].

380. Paragraph (a)(1)(i)(a) of § 1910.144 is revoked.

381. Paragraph (a)(1)(i)(b) of § 1910.144 is revoked.

382. Paragraph (a)(1)(i)(c) of § 1910.144 is revoked.

383. Paragraph (a)(1)(i)(d) of § 1910.144 is revoked.

384. Paragraph (a)(1)(i)(e) of § 1910.144 is revoked.

385. Paragraph (a)(1)(i)(f) of § 1910.144 is revoked.

386. Paragraph (a)(1)(i)(g) of § 1910.144 is revoked.

387. Paragraph (a)(1)(i)(h) of § 1910.144 is revoked.
 388. Paragraph (a)(1)(i)(i) of § 1910.144 is revoked.
 389. Paragraph (a)(1)(i)(j) of § 1910.144 is revoked.
 390. Paragraph (a)(1)(i)(k) of § 1910.144 is revoked.
 391. Paragraph (a)(2) of § 1910.144 is revoked.
 392. Paragraph (a)(4) of § 1910.144 is revoked.
 393. Paragraph (a)(5) of § 1910.144 is revoked.
 394. Paragraph (a)(6) of § 1910.144 is revoked.
 395. Paragraph (a)(7) of § 1910.144 is revoked.
 396. Paragraph (b) of § 1910.144 is revoked.
 § 1910.145 Specifications for accident prevention signs and tags [Amended].
 397. Paragraph (d)(1) of § 1910.145 is amended by striking from the paragraph heading the words "and colors"; and striking the first and last sentences of such paragraph.
 398. Paragraph (d)(2)(ii) of § 1910.145 is revoked.
 399. Paragraph (d)(3)(i) of § 1910.145 is revoked.
 400. Paragraph (d)(3)(ii) of § 1910.145 is revoked.
 401. Paragraph (d)(3)(iii) of § 1910.145 is revoked.
 402. Paragraph (d)(4)(ii) of § 1910.145 is revoked.
 403. Table J-1 of Subpart J is revoked.
 404. Table J-2 of Subpart J is revoked.
 405. Paragraph (d)(5) of § 1910.145 is revoked.
 406. Paragraph (d)(6)(ii) of § 1910.145 is revoked.
 407. Figure J-1 of Subpart J is revoked.
 408. Figure J-2 of Subpart J is revoked.
 409. Figure J-3 of Subpart J is revoked.
 410. Figure J-4 of Subpart J is revoked.
 411. Figure J-5 of Subpart J is revoked.
 412. Paragraph (d)(7)(i) of § 1910.145 is revoked.
 413. Paragraph (d)(7)(ii) of § 1910.145 is revoked.
 414. Figure J-6 of Subpart J is revoked.
 415. Paragraph (d)(8) of § 1910.145 is revoked.
 416. Paragraph (d)(9) of § 1910.145 is revoked.
 417. Figure J-7 of Subpart J is revoked.
 418. Table J-3 of Subpart J is revoked.
 419. Paragraph (d)(11) of § 1910.145 is revoked.

420. Paragraph (e)(1) of § 1910.145 is revoked.
 421. Paragraph (e)(3) of § 1910.145 is revoked.
 422. Paragraph (e)(4) of § 1910.145 is amended by striking the sentence, "The biohazard symbol shall be designed and proportioned as illustrated in figure J-9."
 423. Figure J-9 of Subpart J is revoked.
 424. Paragraph (e)(5) of § 1910.145 is revoked.
 425. Paragraph (e)(6) of § 1910.145 is revoked.
 426. Paragraph (e)(7) of § 1910.145 is revoked.
 427. Paragraph (e)(8) of § 1910.145 is revoked.
 428. Table J-4 of Subpart J is revoked.
 429. Paragraph (f)(1)(ii) of § 1910.145 is amended by striking the words, "or damage to property, or both."
 430. Paragraph (f)(4)(i) of § 1910.145 is amended by striking the words "(See Fig. J-11)."
 431. Paragraph (f)(5)(i) of § 1910.145 is amended by striking the words, "(See Fig. J-12)."
 432. Paragraph (f)(6) of § 1910.145 is amended by striking the words, "(See Fig. J-13)."
 433. Paragraph (f)(7)(i) of § 1910.145 is revoked.
 434. Figure J-10 of Subpart J is revoked.
 435. Figure J-11 of Subpart J is revoked.
 436. Figure J-12 of Subpart J is revoked.
 437. Figure J-13 of Subpart J is revoked.
 438. Figure J-14 of Subpart J is revoked.
 439. Figure J-15 of Subpart J is revoked.
 440. Paragraph (f)(7)(ii) of § 1910.145 is revoked.
 441. Paragraph (f)(8)(i) of § 1910.145 is revoked.

Subpart L—Fire Protection

§ 1910.157 Portable fire extinguishers [Amended].
 442. Paragraph (a)(5) of § 1910.157 is revoked.
 443. Paragraph (a)(6) of § 1910.157 is revoked.
 444. Paragraph (a)(7) of § 1910.157 is revoked.
 445. Paragraph (a)(8) of § 1910.157 is revoked.
 446. Paragraph (c)(1)(ii) of § 1910.157 is amended by striking the words, "both the building structure, if combustible and"
 447. Paragraph (c)(1)(iii) of § 1910.157 is revoked.
 448. Paragraph (c)(1)(v) of § 1910.157 is revoked.

§ 1910.158 Standpipe and hose systems [Amended]
 449. Paragraph (b)(2)(i) of § 1910.158 is revoked.
 450. Paragraph (c)(1)(i) of § 1910.158 is revoked.
 451. Paragraph (c)(1)(ii) of § 1910.158 is revoked.
 452. Paragraph (c)(1)(iii) of § 1910.158 is revoked.
 453. Paragraph (c)(4)(i) of § 1910.158 is revoked.
 454. Paragraph (c)(4)(ii) of § 1910.158 is revoked.
 455. Paragraph (c)(4)(iii) of § 1910.158 is revoked.
 456. Paragraph (c)(4)(iv) of § 1910.158 is revoked.
 457. Paragraph (c)(4)(v) of § 1910.158 is revoked.
 458. Paragraph (c)(4)(vi) of § 1910.158 is revoked.
 459. Paragraph (c)(4)(vii) of § 1910.158 is revoked.
 460. Paragraph (c)(4)(viii) of § 1910.158 is revoked.
 461. Paragraph (c)(4)(ix) of § 1910.158 is revoked.
 462. Paragraph (c)(4)(x) of § 1910.158 is revoked.
 463. Paragraph (c)(4)(xi) of § 1910.158 is revoked.
 § 1910.159 Automatic sprinkler systems [Amended]
 464. Paragraph (b)(1) of § 1910.159 is revoked.
 465. Paragraph (b)(2)(i) of § 1910.159 is revoked.
 466. Paragraph (b)(2)(ii) of § 1910.159 is revoked.
 467. Paragraph (b)(3) of § 1910.159 is revoked.
 468. Paragraph (b)(4)(i) of § 1910.159 is revoked.
 469. Paragraph (b)(4)(ii) of § 1910.159 is revoked.
 470. Paragraph (b)(4)(iii) of § 1910.159 is revoked.
 471. Paragraph (b)(4)(iv) of § 1910.159 is revoked.
 472. Paragraph (b)(4)(v) of § 1910.159 is revoked.
 § 1910.160 Fixed dry chemical extinguishing systems [Amended]
 473. Paragraph (c)(1)(iii) of § 1910.160 is revoked.
Subpart N—Materials Handling and Storage
 § 1910.176 Handling Materials—general [Amended].
 474. Paragraph (d) of § 1910.176 is revoked.
 § 1910.178 Powered industrial trucks [Amended].
 475. Paragraph (q)(11) of § 1910.178 is revoked.

§ 1910.181 Derricks [Amended].

476. Paragraph (f)(2)(i)(g) of § 1910.181 is revoked.
 477. Paragraph (f)(3)(iii)(c) of § 1910.181 is revoked.

Subpart O—Machinery and Machine Guarding

§ 1910.213 Woodworking machinery requirements [Amended]

478. Paragraph (a)(3) of § 1910.213 is revoked.
 479. Paragraph (m)(2) of § 1910.213 is amended by striking the second sentence thereof.
 480. Paragraph (s)(10) of § 1910.213 is revoked.
 481. Paragraph (s)(11) of § 1910.213 is revoked.

§ 1910.215 Abrasive wheel and machinery [Amended]

482. Paragraph (c)(2)(i) of § 1910.215 is revoked.
 483. Paragraph (c)(2)(ii) of § 1910.215 is revoked.
 484. Paragraph (c)(2)(iii) of § 1910.215 is revoked.

§ 1910.217 Mechanical power presses [Amended]

485. Paragraph (a)(1) of § 1910.217 is revoked.
 486. Paragraph (a)(2) of § 1910.217 is revoked.
 487. Paragraph (a)(3) of § 1910.217 is revoked.
 488. Paragraph (c)(3)(v) of § 1910.217 is amended by striking all text following the words "The sweep device" through the word "device." As amended, the paragraph reads as follows:

§ 1910.217 Mechanical power presses.

 (c) Safeguarding the point of operation ***

- (3) Point of operation devices. ***
 (v) The sweep device may not be used for point of operation safeguarding after December 31, 1976.

489. Paragraph (c)(3)(v)(a) of § 1910.217 is revoked.
 490. Paragraph (c)(3)(v)(b) of § 1910.217 is revoked.
 491. Paragraph (c)(3)(v)(c) of § 1910.217 is revoked.
 492. Paragraph (c)(3)(v)(d) of § 1910.217 is revoked.
 493. Paragraph (f)(1) of § 1910.217 is revoked.

§ 1910.219 Mechanical power-transmission apparatus [Amended]

494. Paragraph (b)(4) of § 1910.219 is revoked.
 495. Paragraph (c)(5)(iv) of § 1910.219 is revoked.

496. Paragraph (d)(5) of § 1910.219 is revoked.

497. Paragraph (e)(2)(v) of § 1910.219 is revoked.

498. Paragraph (j) of § 1910.219 is amended by striking the words, "Self lubricating bearings are recommended and".

499. Paragraph (k)(3) of § 1910.219 is revoked.

500. Paragraph (l)(2) of § 1910.219 is amended by striking all the text immediately following the first complete sentence.

501. Paragraph (m)(1)(iii) of § 1910.219 is revoked.

502. Paragraph (m)(2) of § 1910.219 is amended by striking the words, "by one of the following methods:"

503. Paragraph (m)(2)(i)(a) of § 1910.219 is revoked.

504. Paragraph (m)(2)(i)(b) of § 1910.219 is revoked.

505. Paragraph (m)(2)(i)(c) of § 1910.219 is revoked.

506. Paragraph (m)(2)(i)(d) of § 1910.219 is revoked.

507. Paragraph (m)(2)(i)(e) of § 1910.219 is revoked.

508. Paragraph (m)(2)(ii) of § 1910.219 is revoked.

509. Paragraph (m)(2)(iii) of § 1910.219 is revoked.

510. Paragraph (n)(1) of § 1910.219 is revoked.

511. Paragraph (n)(2)(i) of § 1910.219 is revoked.

512. Paragraph (n)(2)(ii) of § 1910.219 is revoked.

513. Paragraph (n)(3) of § 1910.219 is revoked.

514. Paragraph (o) of § 1910.219 is amended by striking the words, "(For the latter, see Table O-13.)."

515. Paragraph (o)(1)(i) of § 1910.219 is revoked.

516. Paragraph (o)(1)(i)(b) of § 1910.219 is revoked.

517. Paragraph (o)(1)(i)(c) of § 1910.219 is revoked.

518. Paragraph (o)(1)(ii) of § 1910.219 is revoked.

519. Paragraph (o)(2)(ii)(a) of § 1910.219 is revoked.

520. Paragraph (o)(2)(ii)(b) of § 1910.219 is revoked.

521. Paragraph (o)(2)(ii)(c) of § 1910.219 is revoked.

522. Paragraph (o)(2)(ii)(d) of § 1910.219 is revoked.

523. Paragraph (o)(2)(ii)(e) of § 1910.219 is revoked.

524. Paragraph (o)(3)(ii) of § 1910.219 is revoked.

525. Paragraph (o)(3)(iv) of § 1910.219 is revoked.

526. Paragraph (o)(3)(v) of § 1910.219 is revoked.

527. Paragraph (o)(4) of § 1910.219 is amended by striking all the text of the paragraph following the word "guard", starting with the word "construction" and ending with "pulley".

528. Table O-12 of Subpart O is revoked.

529. Table O-13 of Subpart O is revoked.

530. Paragraph (p)(6)(i) of § 1910.219 is revoked.

Subpart P—Hand and Portable Powered Tools and Other Hand-Held Equipment

§ 1910.241 Definitions [Amended]

531. Paragraph (c)(1) of § 1910.241 is revoked.

532. Paragraph (c)(2) of § 1910.241 is revoked.

533. Paragraph (c)(3) of § 1910.241 is revoked.

534. Paragraph (c)(4) of § 1910.241 is revoked.

535. Paragraph (c)(5) of § 1910.241 is revoked.

536. Paragraph (c)(6) of § 1910.241 is revoked.

537. Paragraph (c)(7) of § 1910.241 is revoked.

538. Paragraph (c)(8) of § 1910.241 is revoked.

539. Paragraph (c)(9) of § 1910.241 is revoked.

540. Paragraph (c)(10) of § 1910.241 is revoked.

541. Paragraph (c)(11) of § 1910.241 is revoked.

§ 1910.243 Guarding of portable powered tools [Amended]

542. Paragraph (d)(2)(i) of § 1910.243 is amended by striking the words, "and, at the discretion of the manufacturer, any additional safety features he may wish to incorporate."

543. Paragraph (d)(2)(ii) of § 1910.243 is amended by striking the words, "at the discretion of the manufacturer."

544. Paragraph (d)(2)(iii) of § 1910.243 is amended by striking the words, "and, at the discretion of the manufacturer, any additional safety features he may wish to incorporate."

545. Paragraph (d)(3)(i) of § 1910.243 is amended by striking the last two sentences thereof.

546. Paragraph (d)(3)(ii) of § 1910.243 is revoked.

547. Table P-1 of Subpart P is revoked.

Subpart Q—Welding, Cutting, and Brazing

§ 1910.252 Welding, cutting and brazing [Amended]

548. Paragraph (a)(4)(iii)(b) of § 1910.252 is amended by striking the first sentence thereof.

549. Paragraph (a)(5)(v)(b) of § 1910.252 is revoked.

550. Paragraph (a)(5)(vi)(d) of § 1910.252 is amended by striking the last sentence thereof.

551. Paragraph (a)(6)(iv)(b)(1) of § 1910.252 is amended by striking all the text following "Each generator shall be provided with a vent pipe."

552. Paragraph (a)(6)(vi)(a)(7) of § 1910.252 is amended by striking the words, "of ample size."

553. Paragraph (a)(7)(ii)(c) of § 1910.252 is amended by striking the following words after the first sentence, "The location of such storage buildings shall be away from congested mercantile and manufacturing districts."

554. Paragraph (a)(7)(iii)(d) of § 1910.252 is revoked.

555. Paragraph (a)(8)(i) of § 1910.252 is revoked.

556. Paragraph (a)(8)(ii)(a) of § 1910.252 is revoked.

557. Paragraph (a)(8)(ii)(b) of § 1910.252 is revoked.

558. Paragraph (a)(8)(ii)(c) of § 1910.252 is revoked.

559. Paragraph (a)(8)(ii)(d) of § 1910.252 is revoked.

560. Paragraph (a)(8)(ii)(e) of § 1910.252 is revoked.

561. Paragraph (a)(8)(ii)(f) of § 1910.252 is revoked.

562. Paragraph (a)(8)(ii)(g)(1) of § 1910.252 is revoked.

563. Paragraph (a)(8)(ii)(g)(2) of § 1910.252 is revoked.

564. Paragraph (a)(8)(ii)(h) of § 1910.252 is revoked.

565. Paragraph (a)(8)(ii)(i)(1) of § 1910.252 is revoked.

566. Paragraph (a)(8)(ii)(i)(2) of § 1910.252 is revoked.

567. Paragraph (a)(8)(ii)(i)(3) of § 1910.252 is revoked.

568. Paragraph (b)(2)(iv)(b) of § 1910.252 is amended by striking the second sentence thereof.

569. Paragraph (c)(3)(iii) of § 1910.252 is amended by striking the first sentence thereof.

570. Paragraph (c)(5) of § 1910.252 is revoked.

571. Paragraph (e)(3)(ii) of § 1910.252 is revoked.

572. Paragraph (e)(3)(ii)(a) of § 1910.252 is revoked.

573. Paragraph (e)(3)(ii)(b) of § 1910.252 is revoked.

574. Paragraph (e)(3)(ii)(c) of § 1910.252 is revoked.

575. Paragraph (e)(3)(ii)(d) of § 1910.252 is revoked.

576. Paragraph (e)(3)(ii)(e) of § 1910.252 is revoked.

577. Paragraph (e)(3)(ii)(f) of § 1910.252 is revoked.

578. Paragraph (e)(3)(ii)(g) of § 1910.252 is revoked.

579. Paragraph (e)(3)(ii)(h) of § 1910.252 is revoked.

580. Paragraph (e)(3)(ii)(i) of § 1910.252 is revoked.

581. Paragraph (f)(1)(v)(b) of § 1910.252 is amended by striking the

last line thereof, "Keep children away when using."

Subpart R—Special Industries

§ 1910.261 Pulp, paper, and paperboard mills [Amended]

582. Paragraph (d)(4)(iv) of § 1910.261 is amended by striking the second sentence thereof.

583. Paragraph (k)(23) of § 1910.261 is revoked.

§ 1910.265 Sawmills [Amended].

584. Paragraph (c)(7) of § 1910.265 is revoked.

585. Paragraph (c)(20)(iv) of § 1910.265 is revoked.

§ 1910.266 Pulpwood logging [Amended]

586. Paragraph (d)(2)(ii) of § 1910.266 is revoked.

587. Paragraph (e)(1)(ii) of § 1910.266 is revoked.

588. Paragraph (e)(9) of § 1910.266 is revoked.

§ 1910.268 Telecommunications [Amended]

589. Paragraph (f)(3) of § 1910.268 is revoked.

590. Paragraph (g)(2)(ii)(b)(4) of § 1910.268 is revoked.

591. Paragraph (g)(2)(ii)(c) of § 1910.268 is revoked.

Subpart S—Electrical

§ 1910.308 Application [Amended]

592. Paragraph (c)(1) of § 1910.308 is amended by striking the words, "public and private."

Subpart Z—Toxic and Hazardous Substances

§§ 1910.1003—1910.1017 [Amended]

593. Paragraph (d)(1) of § 1910.1003 *4-Nitrobiphenyl* is revoked.

594. Paragraph (d)(1) of § 1910.1004 *alpha-Naphthylamine* is revoked.

595. Paragraph (d)(1) of § 1910.1006 *Methyl chloromethyl ether* is revoked.

596. Paragraph (d)(1) of § 1910.1007 *3,3'-Dichlorobenzidene (and its salts)* is revoked.

597. Paragraph (d)(10) of § 1910.1008 *bis-Chloromethyl ether* is revoked.

598. Paragraph (d)(1) of § 1910.1009 *beta-Naphthylamine* is revoked.

599. Paragraph (d)(1) of § 1910.1010 *Benzidine* is revoked.

600. Paragraph (d)(1) of § 1910.1011 *4-Aminodiphenyl* is revoked.

601. Paragraph (d)(1) of § 1910.1012 *Ethylenimine* is revoked.

602. Paragraph (d)(1) of § 1910.1013 *beta-Propiolactone* is revoked.

603. Paragraph (d)(1) of § 1910.1014 *2-Acetylaminofluorene* is revoked.

604. Paragraph (d)(1) of § 1910.1015 *4-Dimethylaminoazobenzene* is revoked.

605. Paragraph (d)(1) of § 1910.16 *N-Nitrosodimethylamine* is revoked.

606. Paragraph (e)(2) of § 1910.1017 *Vinyl Chloride* is amended by striking the second sentence thereof.

607. Paragraph (m)(2)(ii) of § 1910.1017 is revoked.

[FR Doc. 78-30164 Filed 10-23-78; 8:45 am]

[4510-26-M]

PART 1910—OCCUPATIONAL SAFETY AND HEALTH STANDARDS

Selected Special Industry Safety and Health Standards; Revocation

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTION: Final rule.

SUMMARY: This final rule revokes certain safety and health standards codified in 29 CFR 1910.214 (cooperation and machinery), 29 CFR 1910.263 (bakery equipment), and 29 CFR 1910.264 (laundry machinery and operations). These sections were proposed for revocation in their entirety on December 13, 1977 (42 FR 62892). OSHA has determined that revocation of most of the provisions contained within these sections will better effectuate the purposes of the Occupational Safety and Health Act by allowing OSHA to concentrate its enforcement resources on hazards which have greater significance and impact on exposed employees. The Agency believes that this action will likewise permit both employers and employees to focus their attention toward the elimination or reduction of the more significant hazards in the workplace. OSHA has also determined that revocation of certain of the provisions proposed for revocation would not be beneficial to employee safety or health, and therefore these requirements have been retained in the best interest of worker protection.

EFFECTIVE DATE: November 24, 1978.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

I. BACKGROUND

In order to assure safe and healthful working conditions for working men and women, the U.S. Congress enacted

in 1970 the Occupational Safety and Health Act (the Act) (84 Stat. 1590, 29 U.S.C. 651 *et seq.*). Among other things, the Act authorized the Secretary of Labor " * * * to set mandatory occupational safety and health standards applicable to businesses affecting interstate commerce * * * " (Section 2(b)(3) of the Act, 29 U.S.C. 651). Cognizant of the necessity of creating a speedy mechanism to issue standards expeditiously upon the statute's effective date, Congress in section 6(a) of the Act authorized the Secretary " * * * [to] promulgate as an occupational safety or health standard any national consensus standard * * * " 29 U.S.C. 655(a).

Following this congressional direction, OSHA promulgated its initial occupational safety and health standards for general industry on May 29, 1971, as 29 CFR Part 1910 (36 FR 10466). These standards were derived primarily from national consensus standards which were originally developed by such voluntary nongovernmental organizations as the American National Standards Institute (ANSI) and the National Fire Protection Association (NFPA). OSHA also adopted, as occupational safety and health standards, established Federal standards previously issued under several prior acts of Congress; however, none of the standards derived from such established Federal standards were proposed for revocation in this rulemaking.

Since the adoption of these consensus standards, OSHA has received comments from many affected parties concerning the effectiveness, relevance, and applicability of a large number of their provisions. In the appropriations bill for fiscal year 1977, Congress specifically directed OSHA to eliminate "so-called nuisance standards or standards which do not deal with workplace conditions that are clearly hazardous to the health or safety of workers or are more properly under the jurisdiction of State departments of public health." More recently, President Carter ordered the executive departments to reduce and simplify the existing body of governmental regulations.

The Secretary of Labor and the Assistant Secretary for Occupational Safety and Health have responded to this mandate for change by reviewing the Agency's regulations and regulatory policy, and redirecting its enforcement efforts toward more significant safety and health hazards. Among the initial steps was the creation of a task force charged with identifying and recommending to the Assistant Secretary provisions within 29 CFR Part 1910 (General Industry Safety and Health Standards) which should be modified. In order to achieve its first

goals expeditiously, the Agency sought to identify those provisions within part 1910 where the desired modification could be accomplished through the simple revocation of one or more provisions. The task force review culminated in two proposals to revoke a total of approximately 1,100 regulatory requirements. The proposals were announced on December 5, 1977, and published in the FEDERAL REGISTER on December 13, 1977 (42 FR 62734 and 42 FR 62892). The first proposal (docket S-250), proposed to revoke selected standards of general applicability; the second (docket S-251), involving selected special industry standards, proposed to revoke in their entirety 29 CFR 1910.214 (cooperage machinery), 1910.263 (bakery equipment), and 1910.264 (laundry machinery and operations).

In addition to these rulemakings, the Agency is continuing its on-going review of each Subpart which subsequently will result in comprehensive revisions of 29 CFR Part 1910 (General Industry). In rewriting these subparts, the Agency intends to develop and promulgate new standards which will concentrate on the more serious safety hazards facing employees. Efforts will also be made to simplify regulatory language and eliminate detail wherever possible. OSHA believes that this will facilitate compliance, improve enforcement, and increase employee protection.

The three special industry sections proposed for revocation were derived originally from standards developed by the American National Standards Institute (ANSI) and adopted by OSHA pursuant to Section 6(a) of the Act, 29 U.S.C. 655(a). Since the Agency's adoption, ANSI has substantially revised the respective standards upon which OSHA has relied. The OSHA safety standards adopted for cooperage, § 1910.214, were derived from the ANSI 01.1-1954 standard, "Safety Code for Woodworking Machinery," (reaffirmed in 1961). Subsequently, ANSI has revised its voluntary standard for cooperage, effective 1975. The OSHA safety standards adopted for bakery equipment (§ 1910.263) were drawn from the ANSI Z50.1-1947 "Safety Code for Bakery Equipment," which was initiated in 1943 and received final approval on August 4, 1947. Subsequently, in 1971 ANSI revised its bakery equipment standard. OSHA's Laundry Machinery and Operations standards, § 1910.264 were based on the 1961 national consensus standard ANSI Z8.1-1961, "Safety Code for Laundry Machinery and Operations." The original voluntary standard was first approved in 1924 and became an American Standard in 1941. In June 1953, a revision was started which produced an approved

standard in 1961. Subsequent to OSHA's regulatory adoption, ANSI revised its Z8.1 standard in 1972.

II. PROCEDURAL HISTORY

The December 13, 1977 proposal provided for a comment period continuing through March 3, 1978. Interested parties representing both employees and employers requested that this be extended to May 3, 1978. After reviewing such requests, OSHA extended the comment period to May 3, 1978 (43 FR 9830, 43 FR 9831, March 10, 1978) for both Docket Nos. S-250 and S-251.

During the comment period, OSHA also received requests from several labor organizations to discuss the standards proposed for revocation. The requests were granted and meetings were conducted during the period March 13-23, 1978. Individual OSHA staff members presented the Agency's position regarding specific provisions proposed for revocation and outlined OSHA's policy objectives. A written memorandum summarizing the meetings was prepared and entered into the public record on April 11, 1978. Similar opportunity was made available to other interested groups. No other persons or groups requested similar meetings.

Two requests were received for hearing on the special industry standards proposed for revocation. The Agency denied one request in writing on the grounds that the requesting party failed to substantially comply with the Agency's rules governing application for public hearings (29 CFR 1911.11 and reprinted in the preamble to the proposal). The other request was formally withdrawn by the filing party. Therefore, no public hearing was held on the proposal.

III. GENERAL FINDINGS OF THE AGENCY AND SUMMARY OF THE FINAL RULE

In response to the many public concerns regarding the effectiveness, relevance, and applicability of these national consensus standards, OSHA has committed itself to a program of developing safety and health standards that more effectively achieve the goals and purposes of the Occupational Safety and Health Act by allowing OSHA to concentrate its enforcement resources on higher hazard industries and operations. As a first step, the Agency is revoking a number of those regulations which most clearly have no direct or immediate relationship to the safety or health of employees, or are otherwise inappropriate to enforce pursuant to the Agency's statutory purposes. OSHA has determined that these revocations will permit the Agency to better effectuate the purposes of the Act by focusing Agency resources on hazards which have greater significance and impact on ex-

posed workers. The Agency also believes that this action will likewise permit both employers and employees to focus their attention toward the elimination or reduction of the more significant hazards in the workplace. OSHA believes that the objectives of this rulemaking are being achieved without compromising the health or safety of the affected workers.

For the reasons stated herein, the Agency has determined that the findings of the Secretary in this rulemaking meet the provisions of Section 6(b)(8) of the Act, 29 U.S.C. 655.

In reviewing provisions of Part 1910 for possible revocation, OSHA gave particular attention to sections prescribing regulations for specific industries. This examination was based on several factors. An overriding consideration was whether it was an effective use of OSHA's resources to enforce highly detailed standards with limited applicability in workplace situations which have relatively low accident incidence rates and/or less severe injuries. OSHA has determined as a matter of policy that such a commitment of resources would be of limited benefit where most of the hazards addressed by the highly detailed standard were already covered by other standards of more general applicability.

A second factor was whether the standards were directly relevant to occupational safety or health. Many of the original ANSI provisions from which the OSHA standards were derived were concerned with protection of the equipment itself rather than the employees who work with the equipment. Others were informational in nature or not otherwise appropriate for mandatory enforcement.

Based on these considerations, the special industry standards for cooperage (1910.214), bakery (1910.263), and laundries (1910.264) were proposed for revocation in their entirety. In proposing these sections for revocation, OSHA was of the opinion that their elimination would result in better utilization of its resources by focusing them on higher hazard industries or workplace situations, and would effectuate the current directives of both the President and the Congress to reduce and simplify governmental regulations without compromising the goals and purposes of the Occupational Safety and Health Act. However, OSHA also recognized in its proposal that the evidence and comments might indicate that certain portions of the affected sections should not be revoked (See 42 FR 62892), and therefore the Agency might retain those portions it deemed appropriate if revocation of such provisions would significantly reduce worker safety and health.

A total of 74 comments were received regarding the special industry standards which were proposed for revocation (Docket No. S-251). Of these comments, 17 were received from various trade associations, 16 were received from management, 11 from labor unions, nine from interested individuals and 21 from various governmental sources. Several of the comments received addressed the Agency's overall approach to this rulemaking of proposing to eliminate entire sections of Part 1910 regulations, while others addressed specific provisions within the special industry sections which had been proposed for revocation. Most of the comments in favor of revocation were general in nature. The thrust of the comments objecting to revocation was that there are certain important provisions in these sections for which the general industry standards do not provide adequate or alternative coverage. Upon examining the evidence, OSHA has determined that in the best interest of worker protection, certain of these provisions should not be revoked.

1. *Cooperage machinery: 29 CFR 1910.214.* The hazards addressed by this section's highly detailed provisions are already covered by other OSHA standards of general applicability; specifically: §1910.212 (general machine guarding), §1910.213 (woodworking machinery requirements) and §1910.219 (mechanical power-transmission apparatus) as appropriate. Although specific injury incidence rates for cooperage machinery are not available, industry usage has declined over the years. Therefore, it was determined by OSHA that employee protection would not be diminished by the revocation of this entire section. This determination has not been altered by the comments received. All 38 provisions in this section are therefore revoked.

2. *Bakery equipment: 29 CFR 1910.263.* The proposal suggested that most of the working conditions presently covered by the highly detailed specifications in this section are for the most part addressed by other OSHA standards of more general applicability, such as machine guarding (§1910.212) or mechanical power-transmission apparatus (§1910.219). Upon review of the evidence and public comment, OSHA has determined that most of this section may be revoked without diminishing protection of employee safety or health. Two hundred twenty-three provisions have therefore been revoked from this section. However, it has been determined that revocation of certain requirements in this section might have an adverse impact on worker safety or health, and therefore such provisions

will be retained to provide the necessary protection to exposed employees.

3. *Laundry machinery and operations: 29 CFR 1910.264.* The conditions in the laundry industry which result in the greatest number of accidents involve machine guarding and walking and working surfaces. These conditions are already adequately covered by existing general industry standards, including §1910.212 and §§1910.21-1910.32. Upon review of the evidence and public comments, OSHA has determined that most of this section could be revoked without diminishing protection of employees safety or health. Sixty-four provisions have therefore been revoked from this section. However, it has been determined that a limited number of provisions should be retained to provide the necessary protection to exposed employees.

IV. SPECIFIC FINDINGS OF THE SECRETARY

Therefore, in consideration of the evidence and public comments, OSHA has made the following specific determinations regarding the special industry standards proposed for revocation.

SUBPART O

§1910.214 *Cooperage machinery.* Section 1910.214 consists of 38 regulations in paragraphs (a) through (w) for the safeguarding of cooperage machinery. The proposed revocation of this section is based on the rationale that other standards adequately cover working conditions currently regulated by the cooperage standard did not provoke a great deal of comment. One commenter opposed this revocation because he feared it would leave the industry without protection, another because he did not feel the criteria used by OSHA justified revocation. At least one commenter objected to the revocation because he believed cooperage machinery presented problems different than those encountered with ordinary woodworking or metal cutting machines.

OSHA disagrees with the objecting commenters. While it is true that cooperage machinery differs somewhat in configuration from that of the machinery in paragraph 1910.213 (Woodworking Machinery) it is generically related and therefore similar in function. The hazards are the same as those to be contended with in the operation of machinery in general, woodworking machines and power transmission apparatus.

A paragraph-by-paragraph examination of Section 1910.214 has determined that paragraph 1910.213 does apply where the machines, equipment and methods of safeguarding are identical. Paragraph 1910.212 applies for general machine guarding of ingoing

nip points and rotating or reciprocating parts with the point of operation guarding requirements based on technology found in paragraph 1910.213 for circular saws, cutting heads, planers, jointers, etc. Further, paragraph 1910.219 applies for the guarding of power transmission apparatus and is currently referenced in paragraph 1910.213 for that purpose.

The 38 regulations revoked in paragraph 1910.214 because they are adequately covered by other standards are listed below indicating those standards that do apply.

Paragraph 1910.214(a)(1) requiring the machine to have a hood-type guard and exhaust system is revoked because it is covered by paragraphs 1910.212 (a)(1), (a)(3)(ii) and 1910.213 (a)(12), (g)(1) and (r)(4).

Paragraph 1910.214(a)(2) requiring the balance wheel to be guarded is revoked because it is covered by paragraphs 1910.212(a)(1), 1910.213(a)(9) and 1910.219(b)(1), (1)(ii), (v) and (vi).

Paragraph 1910.214(a)(3) requiring a return device for a swing carriage is revoked because it is covered by paragraph 1910.213(g)(2).

Paragraph 1910.214(a)(4) requiring a limit stop for a swing carriage is revoked because it is covered by paragraphs 1910.212 (a)(1) and (a)(3)(ii), 1910.213 (a)(12) and (g)(3).

Paragraph 1910.214(b)(1) requiring the machine to have a hood-type guard and exhaust system is revoked because it is covered by paragraphs 1910.212 (a)(1), (a)(3)(ii), 1910.213 (a)(12), (c)(1), and (r)(4).

Paragraph 1910.214(b)(2) requiring guards for portions of the saw blades not covered by stationary guards is revoked because it is covered by paragraphs 1910.212 (a)(1), (a)(3)(ii), 1910.213 (a)(12) and (r)(4).

Paragraph 1910.214(b)(3) requiring a limit stop for the table is revoked because it is covered by paragraphs 1910.212 (a)(1), (a)(3)(ii) and 1910.213(g)(3).

Paragraph 1910.214(c)(1) requiring a hinged-type guard for the saw blade and head is revoked because it is covered by paragraphs 1910.212 (a)(1), (a)(3)(ii) and 1910.213(r)(4).

Paragraph 1910.214(c)(2) requiring an exhaust hood to guard the bottom of the saw blade is revoked because it is covered by paragraphs 1910.212 (a)(1), (a)(3)(ii) and 1910.213(r)(4).

Paragraph 1910.214(d)(1) requiring hand-fed rip saws to be equipped with a hood-type guard is revoked because it is covered by paragraphs 1910.213(a)(12), and (c)(1).

Paragraph 1910.214(d)(2) requiring the use of a spreader is revoked because it is covered by paragraph 1910.213 (1)(2).

Paragraph 1910.214(e)(1) requiring a self-adjusting hood-type guard is re-

voked because it is covered by paragraphs 1910.212 (a)(1), (a)(3)(ii), 1910.213 (c)(1), (d)(1) and (r)(4).

Paragraph 1910.214(e)(2) requiring a saw blade guard and exhaust system beneath the table mandrel is revoked because it is covered by paragraphs 1910.212 (a)(1), (a)(3)(ii), 1910.213 (a)(12) and (r)(4).

Paragraph 1910.214(f)(1) requiring a guard and exhaust system for planers is revoked because it is covered by paragraphs 1910.212 (a)(1), (a)(3)(ii), 1910.213 (j)(3), (5) and (r)(4).

Paragraph 1910.214(f)(2) requiring the feed rolls of planers to be guarded is revoked because it is covered by paragraphs 1910.212 (a)(1), and 1910.213 (b)(7).

Paragraph 1910.214(f)(3) requiring the proper adjustment of hold down arrangements is revoked because it is covered by paragraph 1910.212(a)(1).

Paragraph 1910.214(g)(1) requiring the machine to be guarded and an exhaust system provided is revoked because it is covered by paragraphs 1910.212 (a)(1), (a)(3)(ii), 1910.213(j)(3), (5) and (r)(4).

Paragraph 1910.214(g)(2) requiring the use of a limit stop is revoked because it is covered by paragraph 1910.212(a)(1).

Paragraph 1910.214(g)(3) requiring compliance with (g)(1) and (g)(2) is revoked because the reference to those rules is also revoked.

Paragraph 1910.214(h)(1) requiring a guard for the knives is revoked because it is covered by paragraphs 1910.212 (a)(1), (a)(3)(ii), 1910.213(j)(5), (o)(3) and (r)(4).

Paragraph 1910.214(h)(2) requiring a point of operation guard to be provided is revoked because it is covered by paragraphs 1910.212 (a)(1), (a)(3)(iii), and 1910.213 (r)(4).

Paragraph 1910.214(i) requiring a hood-type guard and exhaust system is revoked because it is covered by paragraphs 1910.212 (a)(1), (a)(3)(ii), and 1910.213(r)(4).

Paragraph 1910.214(j) requiring counterweights and frictions gears to be guarded is revoked because it is covered by paragraphs 1910.212(a)(1), 1910.213 (a)(9), (1)(4), 1910.219 (e)(6)(ii), (f)(1), (i), (ii), (iii) and (g).

Paragraph 1910.214(k) requiring feed chains and sprockets to be guarded is revoked because it is covered by paragraphs 1910.212 (a)(1), 1910.213(a)(9) and 1910.213 (f)(1), (3).

Paragraph 1910.214(l) requiring rack and drive gear teeth to be guarded is revoked because it is covered by paragraphs 1910.212(a)(1), 1910.213(a)(9), 1910.219(f)(1) (i), (ii) and (iii).

Paragraph 1910.214(m) requiring a tripping mechanism to be guarded is revoked because it is covered by para-

graphs 1910.212 (a)(1), (a)(3)(iii), and 1910.213(b)(6).

Paragraph 1910.214(n)(1) requiring eccentric cams and gear works to be guarded is revoked because it is covered by paragraphs 1910.212 (a)(1), 1910.213(a)(9), 1910.219 (f)(1)(i), (ii), (iii) and (f)(3).

Paragraph 1910.214(n)(2) requiring the flywheel gear to be guarded is revoked because it is covered by paragraphs 1910.212(a)(1), 1910.213(a)(9), and 1910.219(b)(1)(i).

Paragraph 1910.214(o) requiring sprockets and chains to be guarded is revoked because it is covered by paragraphs 1910.212(a)(1), 1910.213(a)(9), 1910.219(f)(1) and (1)(i).

Paragraph 1910.214(p) requiring the nip points to be guarded on belt sanders is revoked because it is covered by paragraphs 1910.212(a)(1) and 1910.213(p)(4).

Paragraph 1910.214(q)(1) requiring friction pulleys and blocks to be guarded is revoked because it is covered by paragraphs 1910.212(a)(1), 1910.213(a)(9), 1910.219 (f)(4) and (g).

Paragraph 1910.214(q)(2) revoked for equipment similar to (q)(1) because it is covered by the same provisions.

Paragraph 1910.214(r) requiring exhaust hoods and guards for disk sanders is revoked because it is covered by paragraphs 1910.212(a)(1) and 1910.213 (p)(3).

Paragraph 1910.214(s) requiring hand-fed jointers to be guarded to suit the provisions of 1910.213 is revoked because it is covered by paragraphs 1910.213(j)(1), (2), (3), (4) and (5).

Paragraph 1910.214(t) requiring gears and pulleys to be guarded is revoked because it is covered by paragraphs 1910.21(a)(1), 1910.213(a)(9), 1910.219 (d)(1), (f)(1)(i), (ii), (iii) and (f)(2), (3) and (4).

Paragraph 1910.214(u) requiring balance and drive wheels to be guarded is revoked because it is covered by paragraphs 1910.212(a)(1), 1910.213(a)(9), 1910.219(b)(1), (i), (ii), (iv), (vi), and (d)(1).

Paragraph 1910.214(v) requiring gears to be guarded is revoked because it is covered in paragraphs 1910.212(a)(1), 1910.213(a)(9), and 1910.219(f)(1)(i).

Paragraph 1910.214(w) requiring inspection and maintenance is revoked because it is covered by paragraph 1910.213(s).

SUBPART R

§ 1910.263 *Bakery equipment.* The comments received regarding the proposed revocation of this entire section ranged from complete agreement to complete disagreement, with a spectrum of comments between either extreme. Some commenters noted that the concept of vertical standards was desirable while others thought that

vertical standards were unnecessary and coverage currently existing in the general industry horizontal standards was adequate. OSHA has adopted the position that vertical standards are desirable for high hazard industries with large worker populations such as construction or maritime, but cannot be justified in other applications because of the resources required to maintain a large body of vertical standards. Specific provisions of 1910.263 were addressed by some commenters and these are treated in the following discussion of the standard.

Paragraph 1910.263(a) prescribes the general requirements that apply to all regulations governing bakery equipment. There were no comments received specifically addressing the revocation of either of the two provisions contained within the paragraph. Paragraph 1910.263(a)(2) which clarifies the application of standards that have been incorporated by reference is to be revoked because it contains unnecessary detail. The general industry standards are held applicable to bakeries under the criteria defined in paragraph 1910.5 for any employment, place of employment or any industry. Further, the provision being revoked does not identify those standards which would be deemed appropriate for application. Upon reexamination of the evidence, OSHA has determined that paragraph 1910.263(a)(1) which defines the scope of the bakery equipment standard should not be revoked.

Paragraph 1910.263(b) contains the definitions which are applicable to the bakery section. There were no comments received specifically addressing the revocation of these provisions. All 14 definitions are revoked because they provide unnecessary detail and information. Seven of the terms are deleted because the regulations they reference have been revoked and the other seven because it is unnecessary to define the equipment involved in order to apply the remaining standards. Paragraph 1910.263(b)(1) defining a dumpbin and blender is revoked because it provides unnecessary detail and information. Paragraph 1910.263(b)(2) defining a flour elevator is revoked as unnecessary due to revocation of the reference in paragraphs 1910.263(d)(4) (i) and (ii). Paragraph 1910.263(b)(3) defining a screw conveyor is revoked because it provides unnecessary detail and information. Paragraph 1910.263(b)(4) defining a bolting reel is revoked as unnecessary due to revocation of the reference in paragraphs 1910.263(b)(5) (i) and (ii). Paragraphs 1910.263(b) (5) and (6) defining sifters and flour scales are revoked because they provide unnecessary detail and information. Paragraph 1910.263(b)(7) defining a flour gate is revoked as being unnecessary

due to revocation of the reference in paragraph 1910.264(d)(10). Paragraphs 1910.263(b) (8) and (9) defining direct fired and recirculating ovens are revoked because they provide unnecessary detail and information.

Also, paragraphs 1910.263(b) (10), (11) and (12) defining flue type, indirect multiple burner and steam tube ovens are revoked as unnecessary detail due to revocation of the reference in paragraphs 1910.263(1)(12) (i), (ii), (iii), and (iv); (13) (i) and (ii); and (14). Paragraph 1910.263(b)(13) defining indirect recirculating ovens is revoked because it provides unnecessary detail and information.

Paragraph 1910.263(b)(14) defining electric ovens is revoked as providing unnecessary detail due to revocation of the reference in paragraph 1910.263(1)(16).

Paragraph 1910.263(c) provides general machine guarding regulations for bakeries. One comment was received addressing the four provisions to be revoked. The commenter favored revocation.

Two provisions being revoked are covered by other regulations, one is being revoked because it deals with employee comfort and convenience or machine design and one because it is directed toward property protection. Paragraph 1910.263(c)(1) requiring each machine to be electrically grounded is revoked because it is covered by paragraph 1910.309(a) and Article 250-42 of the National Electric Code. Paragraph 1910.263(c)(4) requiring the lubrication fittings of rotating parts to be guarded is revoked because it is covered by paragraph 1910.219(h)(1). Paragraph 1910.263(c)(6) requiring removable covers or guards to be made removable with the least effort is revoked because it is concerned with the comfort or convenience of the employee and to basic machine design criteria. Paragraph 1910.263(c)(7) requiring the guards for motors or other equipment to be designed for proper ventilation is revoked because it is a specification directed toward the primary purpose of protecting the machine from damage.

Upon reexamination of the evidence, OSHA has determined that, in the best interest of worker protection, the following provisions in paragraph 1910.263(c) should not be revoked:

Paragraph 1910.263(c)(2)—Enclosure of gears.

Paragraph 1910.263(c)(3)—Enclosure of sprockets and V-belt drives.

Paragraph 1910.263(c)(5)—Special lubrication fittings to avoid reaching into dangerous part of machine.

Paragraph 1910.263(c)(8)—Covering hot pipes to avoid burns.

Paragraph (d) of 1910.263 sets standards for flour-handling equipment used in bakeries. A review of all com-

ments and evidence has enabled OSHA to revoke 36 provisions. A total of 19 are revoked because they are covered by other provisions. Eleven are revoked because they are concerned with protection of property and equipment or product ingredients being handled. Six are revoked because they are concerned with comfort, convenience or design criteria and not with safety of the employee. Paragraph 1910.263(d)(1)(a) requires disconnecting means for motor circuits. This is required by paragraph 1910.309(b) and is covered by Articles 240 and 422 of the National Electrical Code. Therefore, the provision is revoked. Paragraph 1910.263(d)(1)(c) requires motor control switches to be capable of being locked in the open position. This is required by paragraph 1910.309(b) which refers to Articles 240, 422, and 430-86 of the National Electrical Code and paragraph 1910.145(f)(1)(i). The provision is revoked. Paragraph 1910.263(d)(1)(ii) requires removable covers to be designed for ease in lifting and is revoked because it relates to design criteria for convenience of the employee. Paragraph 1910.263(d)(1)(iii) requiring walkways and platforms around and over bins makes reference to 1910.22 and .23 which adequately cover this hazard. The provision is therefore revoked. Paragraph 1910.263(d)(1)(iii)(a) requires walkways to be maintained in a nonslip condition. This hazard is adequately covered in 1910.22 and .23. The provision is therefore revoked. Paragraph 1910.263(d)(1)(iii)(b) requires walkways to have railings and toeboards and is covered by paragraph 1910.23(c)(1). The provision is therefore revoked.

Also, paragraph 1910.263(d)(1)(iii)(c) requires ladders to comply with 1910.25, 1910.26, and 1910.27 of Subpart D. The provision is revoked because they would apply without this reference. Paragraph 1910.263(d)(1)(iii)(d) requires proper methods to warn occupant of the walkway of inadequate headroom and is covered in paragraphs 1910.145(c) and 1910.145(e). The provision is therefore revoked. Paragraph 1910.263(d)(1)(iv) requires oscillating and vibrating sifters to be protected with guardrails and is covered by paragraph 1910.212(a)(1). The provision is therefore revoked. Paragraph 1910.263(d)(1)(v) requires all mechanical transmission shafting, gearing, and sprocket drives to be completely guarded and is covered by Section 1910.219. Therefore the provision is revoked. Paragraph 1910.263(d)(1)(vi) requires all guards to be readily removable and is revoked because it is concerned with comfort or convenience. This requirement is concerned with ease of cleaning, not employee safety. Paragraph 1910.263(d)(1)(vii) requires all interior

or exterior protruding corners of flour-handling equipment to be of a rounded nature and is revoked because it is concerned with comfort or convenience. Paragraph 1910.263(d)(1)(viii) requires motors to be approved for locations rated Class II hazard, and makes reference to Part 1910, Subpart S. This provision is revoked, because coverage is provided in paragraph 1910.309(b) which references Article 502 of the National Electrical Code.

Also, paragraph 1910.263(d)(2)(iii) requiring conveyor chains to remain in guides if broken is covered by paragraph 1910.212(a)(1) which requires employee protection from all machinery parts and is revoked. Paragraph 1910.263(d)(3)(i) requires that a dumpbin or blender be constructed of metal or other nonsplintering material, and is revoked because it is directed toward public safety or property protection.

Also, paragraph 1910.212(a)(3). This provision therefore is revoked. Paragraph 1910.263(d)(3)(ii) requires guarding for openings of dumpbins and blenders, and is covered in paragraph 1910.263(d)(3)(iii) requires that covers be provided with locks or latches so that they will not accidentally fall down while the machine is in operation, and is revoked because it is concerned with design for convenience of the employee. Paragraph 1910.263(d)(3)(iv) requires dumpbins and blenders to be so constructed that no separate pits in floors be required at the point which connects the final discharge to the usual elevator. This is a design matter considered at the time of construction and installation to provide for efficient production, not employee safety. The provision therefore is revoked. Paragraph 1910.263(d)(3)(viii) requires a screen in the suction nozzle over the bin or blender, and is directed toward property protection. It is therefore revoked. Paragraph 1910.263(d)(4)(i) requires flour elevators to be constructed of metal or other nonsplintering material, and is directed toward public safety and is revoked.

Also, paragraph 1910.263(d)(4)(ii) requires removable sections of the elevator casing to be equipped with clamps for quick removal, etc., and is revoked because it is concerned with comfort or convenience of the employee. Paragraph 1910.263(d)(5)(i) requires bolting reels to be constructed of metal or other nonsplintering material. This provision is directed toward public safety and is revoked. Paragraph 1910.263(d)(5)(ii) requires refuse tailing spouts to be located at a safe distance from unguarded moving parts, and is revoked because it is covered by paragraph 1910.212(a)(1). Paragraph 1910.263(d)(6)(i) requires storage bins to be constructed of metal or other

nonsplintering material. This provision is directed toward public safety and is revoked.

Also, paragraph 1910.263(d)(6)(iv) relates to the location of conveyors in top of storage bins and is not concerned with hazards to employees. The rule is revoked as it is more concerned with property protection. Paragraph 1910.263(d)(6)(v) requires an electric limit switch be provided in the top of the bin to avoid delivering an excessive amount of flour to the bin. It is revoked because it is directed toward property protection. Paragraph 1910.263(d)(7)(i) requires that screw conveyors be constructed of metal or other nonsplintering material. This paragraph is revoked because it is directed toward property protection. Paragraph 1910.263(d)(7)(ii) requires screw conveyors to be provided with an overflow safety gate and is revoked because it is directed toward property protection. Paragraph 1910.263(d)(8)(ii) requires oscillating and vibrating sifters to be constructed so that all moving parts are well within the outer frame or the apparatus. This paragraph is covered in paragraph 1910.212(a)(1) and is revoked. Paragraph 1910.263(d)(8)(iii) requires tailing spouts be located at a safe distance from unguarded moving parts. This paragraph is covered in paragraph 1910.212(a)(1) (guarding by location) and is revoked. Paragraph 1910.263(d)(9)(i) requires flour scales to be constructed of metal or other nonsplintering material. This paragraph is directed toward public safety. It is therefore revoked. Paragraph 1910.263(d)(9)(ii) requires covering over dial scales be made of nonshatterable transparent material. This paragraph is directed toward property protection and is revoked. Paragraph 1910.263(d)(9)(iv) requires guarding all moving trolley wheels and is covered in paragraph 1910.212(a) and is therefore revoked.

Also, paragraph 1910.263(d)(9)(v) requires that a scale cutoff switch be enclosed and guarded to protect the operator from contact. This is required by and covered in paragraph 1910.309(b) which refers to Article 110-17 of the National Electrical Code. The provision is therefore revoked. Paragraph 1910.263(d)(9)(vi) requires interlocks on traveling flour scales so that the gate will not open unless the hopper is below. This paragraph is revoked because it is directed toward property protection. Paragraph 1910.263(d)(10) requires automatic flour-gate equipment to be constructed of metal or other nonsplintering material. This paragraph is revoked because it is directed toward property protection.

Upon reexamination of the evidence, OSHA has determined that, in the best interest of worker protection, the following provisions of paragraph 1910.263(d) should not be revoked:

1910.263(d)(1)(i)(b)—Remote switches for electric motors.

1910.263(d)(1)(i)(d)—Magnetic controllers for electric motors arranged in a unit.

1910.263(d)(2)(i)—Gravity bag chutes.

1910.263(d)(2)(ii)—Bag-arm elevators.

1910.263(d)(2)(iv)—Prohibition of manlifts.

1910.263(d)(3)(v)—Dumpbin and blender hoods.

1910.263(d)(3)(vi)—Height of dumpbins from floor.

1910.263(d)(3)(vii)—Control device to stop dumpbin and blender.

1910.263(d)(6)(ii)—Storage bin covers.

1910.263(d)(6)(iii)—Storage bin safety ladders.

1910.263(d)(6)(vi)—Storage bin cover interlock.

1910.263(d)(9)(iii)—Bar handles on traveling or track-type flour scales.

Paragraph (e) of 1910.263 establishes standards for mixers used in bakeries. The comment and evidence examined by OSHA will permit the revocation of 14 provisions and the partial revocation of one provision. Ten provisions being revoked are adequately covered elsewhere, two provisions relate to equipment design criteria for manufacture or comfort and convenience of the employee. One provision is obsolete. One requirement is concerned with property protection not employee safety. One provision is amended to exclude references which have been revoked. Paragraph 1910.263(e)(1)(ii) requires all drive elements of mixers within power units to be enclosed. This paragraph is covered in paragraph 1910.212(a)(1) and is revoked. Paragraph 1910.263(e)(1)(v)(c) permits the operator to have a full view of the bowl opening while the mixing bowl is more than one-fifth open and the agitator is in motion. This is a design and installation specification for production purposes. The requirement is revoked. Paragraph 1910.263(e)(1)(vi) requires the operator of mixers with power dumping devices to keep at least one hand engaged during the entire closure of the mixing bowl. This paragraph is covered in paragraph 1910.(a)(1) and is therefore revoked. Paragraph 1910.263(e)(1)(vii) requires mixer's operating mechanisms be conveniently manipulated in order not to jeopardize the employee's safety. This paragraph is revoked because it is concerned with comfort or convenience. Paragraph 1910.263(e)(1)(ix) requires no loose access doors and covers on mixers weighing more than 2 pounds. This is revoked because it is concerned with comfort or convenience.

Also, paragraph 1910.263(e)(1)(xi) requires mixers to be bolted solidly to the floor to prevent dislocation or excessive vibration. This is covered in paragraph 1910.212(b) and is revoked. Paragraph 1910.263(e)(1)(xii) requires mixers to be installed on substantial foundations to withstand the live loads incurred in mixing operations. This is covered in paragraph 1910.212(b) and is revoked. Paragraph 1910.263(e)(1)(xiii) requires that access for lubrication be provided. This is covered in paragraph 1910.263(c)(5) of the bakery standard and is revoked. Paragraph 1910.263(e)(1)(xiv) requires an interlock for the mixer to prevent injury to the operator. This paragraph is covered in paragraphs 1910.212(a)(1) and (a)(4) and is revoked. Paragraph 1910.263(e)(1)(xv) prohibiting the use of control circuits with potential in excess of 240 volts, is obsolete in that present consensus standards require a maximum of 120 volts to ground, and is revoked. Paragraph 1910.263(e)(1)(xvi) provides for overcurrent protection for motors and undervoltage protection in all magnetic controllers. This paragraph is revoked because it is required by paragraph 1910.309(b) and it is covered in Articles 430-31 through 430-44 of the National Electrical Code. Paragraph 1910.263(e)(1)(xvii) requires positive means to prevent application of pressure above the stipulated maximum in all mixer cooling jackets. This paragraph is revoked because it is directed toward property protection. Paragraph 1910.263(e)(2)(i) should exclude reference to revoked paragraphs, and is therefore amended to read, "Vertical mixers shall comply with paragraphs (e)(1), (i), (iii), and (x) of this section."

Also, paragraph 1910.263(e)(2)(ii) requires positive means on vertical mixers to prevent injury to the operator during speed change manipulations. This paragraph is revoked because it is covered in paragraph 1910.212(a)(1). Paragraph 1910.263(e)(2)(v) requires protection against moving agitators of the mixer. This paragraph is revoked because it is covered in paragraphs 1910.212(a)(3) (i) and (ii).

Upon reexamination of the evidence, OSHA has determined that, in the best interest of worker protection, the following provisions of paragraph 1910.263(e) should not be revoked:

Paragraph 1910.263(e)(1)(i)—Enclosure of external power application component.

Paragraph 1910.263(e)(1)(iii)—Mixer control interlock.

Paragraph 1910.263(e)(1)(iv)—Location of mixer control station.

Paragraph 1910.263(e)(1)(v)(a)—Two-hand safety switches for mixers.

Paragraph 1910.263(e)(1)(v)(b)—Two-hand safety switches for mixers.

Paragraph 1910.263(e)(1)(x)—Counterbalancing of mixer overhead doors.

Paragraph 1910.263(e)(1)(xviii)—Safe location of valves and controls for mixer jackets.

Paragraph 1910.263(e)(2)(iii)—Positive bowl locking devices.

Paragraph 1910.263(e)(2)(iv)—Handling devices for mixing bowls weighing more than 80 pounds.

Paragraph (f) of 1910.263 provides requirements for dividers used in bakery operations. After a review of comments and evidence OSHA is revoking several provisions. Three provisions are revoked as they are covered by other regulations, one provision revoked deals with property protection and one provision is revoked because it is concerned with comfort and convenience and not with employee safety. Paragraph 1910.263(f)(1) requires pinch and shear points guarding for dividers. This paragraph is covered in paragraph 1910.212(a)(1) and is revoked. Paragraph 1910.263(f)(2) requires that guards at front of dividers be arranged so that weight of dough can be adjusted without removing the guard. This paragraph is revoked because it is concerned with comfort or convenience. Paragraph 1910.263(f)(4) requires that oil holes in the knife at the back of the divider be of such size that an employee's finger cannot go through the hole. This paragraph is revoked because it is covered in paragraph 1910.212(a)(1). Paragraph 1910.263(f)(5) requires a guard on any elongated hole in the knife actuating arm at the back of the divider. This paragraph is revoked because it is covered in paragraph 1910.212(a)(1). Paragraph 1910.263(f)(6) requires that dividers be equipped with mechanical overload release devices. This paragraph is revoked because it is directed toward property protection.

Upon reexamination of the evidence, OSHA has determined that, in the best interest of worker protection, the following provision of paragraph 1910.263(f) should not be revoked:

Paragraph 1910.263(f)(3)—Guarding and interlock of cover for rear of dividers.

Paragraph (g) of 1910.263 provides requirements for moulders used in bakery operations. Two provisions are revoked because they are covered by other regulations. One provision is revoked because it is concerned with convenience and not with employee safety. Paragraph 1910.263(g)(4) requires design and proximity of clean out holes to be clear of shear points. It is revoked, since it is adequately covered by paragraph 1910.212(a)(3)(iii). Paragraph 1910.263(g)(5) requires the rear of moulder to be designed to prevent a shearing or pinching hazard. It

is revoked, since it is covered by paragraph 1910.212(a)(1). Paragraph 1910.263(g)(6) requires brackets for holding a removable adjustment crank when not in use. It is revoked, since it relates to employee convenience.

Upon reexamination of the evidence, OSHA has determined that, in the best interest of worker protection, the following provisions of paragraph 1910.263(g) should not be revoked:

Paragraph 1910.263(g)(1)—Guarding hoppers used on moulders.

Paragraph 1910.263(g)(2)—Guarding hand-fed moulders.

Paragraph 1910.263(g)(3)—Stopping devices for moulders.

Upon reexamination of the evidence, OSHA has determined that, in the best interest of worker protection, the following provisions of paragraph 1910.263(h) should not be revoked:

Paragraph 1910.263(h)(1)—Top roll protection on manually fed dough brakes.

Paragraph 1910.263(h)(2)—Emergency stop bar on dough brakes.

Paragraph (i) of 1910.263 prescribes regulations for miscellaneous equipment used in bakery operations. OSHA has reviewed the evidence and comments received, and determined that 23 provisions in that paragraph can be revoked. Twelve of the regulations are revoked because they are covered adequately elsewhere. Five provisions are revoked because they are concerned with property protection not with employee safety. Five provisions are revoked because they are concerned with comfort, convenience or design and are not concerned with employee safety. One provision is revoked because it is inconsequential. Paragraph 1910.263(i)(6)(i) requires the elimination of sharp splinters or rough corners or edges. It is revoked because it relates to the protection of property. Paragraph 1910.263(i)(6)(iv) requiring end guards for shelves is revoked, because it is directed toward property protection. Paragraph 1910.263(i)(8)(i) requires handles for operating devices that are suspended from the overhead and less than 6 feet 8 inches above the floor, to be made of pliable material. It is revoked, since it is covered by paragraph 1910.37(i). Paragraph 1910.263(i)(8)(ii) requires dials of floor scales to be covered by nonshatterable transparent material. It is revoked, as it is intended to protect property. Paragraph 1910.263(i)(9) requires guarding of chute for the protection of employees from falling in. It is revoked, since appropriate protection is provided in paragraph 1910.23(a)(3). Paragraph 1910.263(i)(10)(i) requires elimination of sharp corners or edges on metal skids. It is revoked, as it is intended to protect property.

Also, paragraph 1910.263(i)(10)(ii) requires protecting exposed splinters on edges and corners of skids. It is revoked, as it is intended to protect merchandise. Paragraph 1910.263(i)(11)(ii) requires that attachment cords for portable electric agitators shall be so wired that the agitator will be grounded. It is revoked, because it is covered by paragraph 1910.309(b) and Article 250-45(d) of the National Electrical Code. Paragraph 1910.263(i)(14)(i) requires all sharp corners and edges on air-conditioning units to be eliminated. It is revoked, as it relates to the protection of the general public. Paragraph 1910.263(i)(15)(i) requires counter balanced hinged covers or sliding covers on pan washing tanks. It is revoked, because it is inconsequential and does not impose a substantial requirement. Paragraph 1910.263(i)(15)(iii) requires working platforms to be kept at least 32 inches below the top of the tank or guardrails. It is revoked because it duplicates the intent of paragraph 1910.22(c). Paragraph 1910.263(i)(15)(iv) requires electric sockets to be non-metallic and keyless and other electrical equipment shall be moisture proof. It is revoked because it duplicated requirements of paragraph 1910.309(b) and is covered by Article 110-11, 300-6 of the National Electrical Code. Paragraph 1910.263(i)(16) requires sharp corners and edges to be eliminated from pan washing machines. It is revoked because it is obsolete due to technological change. Paragraph 1910.263(i)(17) requires all pinch points on cake depositors to be eliminated, guarded, or shielded. It is revoked because it is adequately covered by paragraph 1910.212(a)(1). Paragraph 1910.263(i)(18) requires all pinch points on icing machines to be eliminated, guarded, or shielded. It is revoked because it is adequately covered by paragraph 1910.212(a)(1).

Also, paragraph 1910.263(i)(19)(i) requires all pinch points on conveyor type bread coolers to be eliminated or guarded. It is revoked because it is adequately covered by paragraph 1910.212(a)(1). Paragraph 1910.212(i)(19)(ii) requiring installation of stop bumpers at conveyor ends is revoked since appropriate protection is provided in paragraph 1910.212(i)(7)(ii). Paragraph 1910.212(i)(20)(i) requires guard rails to be installed to the center rack of rack type bread coolers. It is revoked because it is not related to employee safety. Paragraph 1910.263(i)(21)(i) requires sharp corners and edges to be eliminated from bread and cake boxes, etc. It is revoked because it relates to the design of the metal parts not controlled by the employer.

Paragraph 1910.263(i)(21)(iii) requires protecting all wooden corners

and edges to prevent splinters on bread, cake boxes, etc. It is revoked because it relates to the design of the utensils. Paragraph 1910.263(i)(23)(ii) requires fire extinguisher for a Class B fire to be provided. It is revoked because it duplicates the requirement of 1910.157. Paragraph 1910.263(i)(23)(iii) requires goggles and face shields to be provided to prevent injuries from hot fat splashes. It is revoked because it duplicates the requirements of 1910.133.

Upon reexamination of the evidence, OSHA has determined that, in the best interest of worker protection, the following provisions of paragraph 1910.263(i) should not be revoked:

Paragraph 1910.263(i)(1)—Door locks on proof boxes.

Paragraph 1910.263(i)(2)—Nonshattering material on fermentation room doors.

Paragraph 1910.263(i)(3)—Antifriction bearing casters on troughs.

Paragraph 1910.263(i)(4)(i)—Caster placement on hand trucks.

Paragraph 1910.263(i)(4)(ii)—Handle locks for hand trucks.

Paragraph 1910.263(i)(5)—Handle locks for lift trucks.

Paragraph 1910.263(i)(6)(ii)—Positioning handles on racks.

Paragraph 1910.263(i)(6)(iii)—Antifriction bearings on casters for racks.

Paragraph 1910.263(i)(7)(i)—Guarding conveyors passing over aisles.

Paragraph 1910.263(i)(7)(ii)—Stop bumpers required for conveyors.

Paragraph 1910.263(i)(7)(iii)—Stop buttons for conveyors.

Paragraph 1910.263(i)(8)(i)—Handles for overhead trolley switches.

Paragraph 1910.263(i)(11)(i)—Interlocks for covers of premixers and emulsifiers.

Paragraph 1910.263(i)(12)(i)—Marking chain tackle for maximum load capacity.

Paragraph 1910.263(i)(12)(ii)—Marking chain tackle for minimum support capacity.

Paragraph 1910.263(i)(12)(iii)—Required safety hooks.

Paragraph 1910.263(i)(13)(i)—Marking trough hoists for maximum load capacity.

Paragraph 1910.263(i)(13)(ii)—Marking hoists for minimum support requirements.

Paragraph 1910.263(i)(13)(iii)—Safety catches for chain to hold load.

Paragraph 1910.263(i)(13)(iv)—Required use of safety hooks.

Paragraph 1910.263(i)(14)(ii)—Double door locks for inside and outside operation required on air-conditioning units where they can be entered.

Paragraph 1910.263(i)(15)(ii)—Requires non-slip floor surface around pan washing tanks.

Paragraph 1910.263(i)(15)(v)—Exhaust hoods over pan washing tanks.

Paragraph 1910.263(i)(20)(ii)—Double door locks for inside and outside operation required on bread coolers.

Paragraph 1910.263(i)(22)(i) and (ii)—Separate flue for venting frying vapors and products of combustion for chamber used to heat fat.

Paragraph 1910.263(i)(23)(i)—Requires non-slip floors around fat kettles.

Paragraph 1910.263(i)(23)(iv)—Minimum height of fat kettles above floor.

Paragraph 1910.263(i)(24)(i)—Positive locking devices to hold steam kettles required.

Paragraph 1910.263(i)(24)(ii)—Safety valves required for steam kettles.

Paragraph (j) of 1910.263 prescribes regulations for slicers and wrappers used in bakery operations. OSHA has reviewed the evidence and comments received, and determined that many of the provisions in that paragraph can be revoked without exposing employees to recognized hazards, since most of the requirements in those paragraphs are covered elsewhere in Part 1910. Eleven provisions being revoked from paragraph (j) are covered by other regulations and one because it is a design criteria set by machine manufacturers.

Paragraph 1910.263(j)(1)(i) requires the enclosure of sprockets, chains and V-belts drives, and is covered by paragraph 1910.219(f)(3) for sprockets and chains, and by paragraph 1910.219(e)(1) for belt drives. The provision is therefore revoked. Paragraph 1910.263(j)(1)(ii) protects against a point of operation hazard and is covered by paragraph 1910.212(a)(3)(ii). The provision is therefore revoked. Paragraph 1910.263(j)(1)(vi) requires guarding of a pinch point and is covered by paragraph 1910.212(a)(1). The provision is therefore revoked. Paragraph 1910.263(j)(1)(vii)(a) protects against the hazard of a shear point and is covered by paragraph 1910.212(a)(1). The provision is therefore revoked. Paragraph 1910.263(j)(1)(vii)(b) requires the guarding of chains, sprockets and belts and is adequately covered by paragraph 1910.219(e)(1) and 1910.219(f)(3). The provision is therefore revoked. Paragraph 1910.263(j)(1)(vii)(d) requires that transfer chain be completely enclosed and is covered by paragraph 1910.212(a)(1). The provision is therefore revoked. Paragraph 1910.263(j)(2)(i) requires a smooth solid disk wheel on a wrapping machine, which is a design criteria set by machine manufacturers and cannot be controlled by employers. The provision is therefore revoked. Paragraph

1910.263(j)(2)(ii) requires a two-piece guard in front of the crossfeed chain and is covered by paragraph 1910.212(a)(1). The provision is therefore revoked. Paragraph 1910.263(j)(2)(iv) requires that electrical wiring used to connect the movable heaters assembled be heat resistant and minimum in number. This is required by paragraph 1910.309(b) and is covered by Sections 300-17, 310-4 and 300-20 of the National Electrical Code. The provision is therefore revoked.

Also, paragraph 1910.263(j)(2)(v) protects against the hazard of run-in nip point of rubber rollers and is covered by paragraph 1910.212(a)(1). The provisions is therefore revoked. Paragraph 1910.263(j)(2)(vi) requires guarding of the nip point between a chain and a sprocket and is covered by paragraph 1910.219(f)(3). The provision is therefore revoked. Paragraph 1910.263(j)(2)(vii) requires a complete enclosure of sprocket, chain and V-belt drives on wrappers, and is covered by paragraph 1910.219(f)(3) for sprockets and chains, and by paragraph 1910.219(e)(1) for belt drives. The provision is therefore revoked.

Upon reexamination of the evidence, OSHA has determined that, in the best interest of worker protection, the following paragraphs in 1910.263(j) should not be revoked:

Paragraph 1910.263(j)(1)(iii)—Interlocking cover over knife head of slicing machine.

Paragraph 1910.263(j)(1)(iv)—Guarding of slicers with endless band knives.

Paragraph 1910.263(j)(1)(v)—Protection when sharpening slicer blades.

Paragraph 1910.263(j)(1)(vii)(c)—Control levers for slicing machine conveyors and wrapping machines.

Paragraph 1910.263(j)(2)(iii)—Protection from contact with electrical heaters.

Paragraph (k) of 1910.263 prescribes regulations for biscuit and cracker equipment used in bakery operations. OSHA has examined the evidence and the comments received and determined that many of the provisions in that paragraph can be revoked without compromising employee safety. Fourteen provisions being revoked from paragraph (k) are covered by other regulations, and two are revoked because they pertain to the protection of property.

Paragraph 1910.263(k)(4) protects against the hazards of top openings on horizontal tub type machines and is covered by paragraph 1910.212(a)(3)(ii). The provision is therefore revoked. Paragraph 1910.263(k)(7)(i) protects against the hazard of a nip point on sheeting rolls and is covered by paragraph 1910.212(a)(3)(ii). The provision is therefore revoked. Paragraph 1910.263(k)(8)(i) protects against the

hazard of a nip point on roll stands and is covered by paragraph 1910.212(a)(3)(ii). The provision is therefore revoked. Paragraph 1910.263(k)(8)(ii) requires guarding of a cutter and is covered by paragraph 1910.212(a)(3)(ii). The provision is therefore revoked. Paragraph 1910.263(k)(8)(iii) requires guarding of reciprocating panner heads and is covered by paragraph 1910.212(a)(1). The provision is therefore revoked. Paragraph 1910.263(k)(8)(iv) provides for motor control buttons to be located within view of a cutting head, and is explicitly directed toward protection of the machine, rather than employee safety and health. The provision is therefore revoked. Paragraph 1910.263(k)(10) protects against the hazard of a nip point on band ovens and is covered by paragraph 1910.212(a)(1). The provision is therefore revoked.

Also, paragraph 1910.263(k)(11) requires guarding of wafer-cutting machines, and is covered by paragraph 1910.212(a)(3)(ii). The provision is therefore revoked. Paragraph 1910.263(k)(12)(ii) requires guarding of pan cooling tower conveyors, and is covered by paragraph 1910.212(a)(1). The provision is therefore revoked. Paragraph 1910.263(k)(12)(iii) requires guarding of a floor opening and is covered by paragraph 1910.23(a)(3) and 1910.23(a)(9). The provision is therefore revoked.

Paragraph 1910.263(k)(12)(iv) requires guarding of a pan conveyor over a work area and is covered by paragraph 1910.263(i)(7)(i). The provision is therefore revoked. Paragraph 1910.263(k)(12)(v) requires the enclosure of sprocket wheels on pan conveyors and is covered by paragraph 1910.219(f)(3). The provision is therefore revoked. Paragraph 1910.263(k)(12)(vi) requires a partition between conveyor chains which run in opposite directions, and is primarily directed toward protection of the conveyors, rather than employee safety and health. The provision is therefore revoked. Paragraph 1910.263(k)(14) requires guarding of a stitching head and is covered by paragraph 1910.212(a)(3)(ii). The provision is therefore revoked. Paragraph 1910.263(k)(15) requires guarding of end seal drums and is covered by paragraph 1910.212(a)(4). The provision is therefore revoked. Paragraph 1910.263(k)(16) requires guarding of cutting knives on carton and lining feeding machines and is covered by paragraph 1910.212(a)(3)(ii). The provision is therefore revoked.

Upon reexamination of the evidence, OSHA has determined that, in the best interest of worker protection, the following provisions of paragraph 1910.263(k) should not be revoked:

Paragraph 1910.263(k)(1)(i)—Electrical interlock between hopper and grinders.

Paragraph 1910.263(k)(1)(ii)—Guards and interlocking covers on hoppers.

Paragraph 1910.263(k)(2)(i)—Grounding of belts on sugar and spice pulverizers.

Paragraph 1910.263(k)(2)(ii)—Requirement for magnetic separators to reduce fire and explosion hazard.

Paragraph 1910.263(k)(3)—Protection of operator for cheese, fruit and food cutters.

Paragraph 1910.263(k)(5)—Guarding of reversible dough brakes and tripping mechanism.

Paragraph 1910.263(k)(6)—Guarding of cross-roll brakes.

Paragraph 1910.263(k)(7)(ii)—Automatic stopping device on hoppers for sheeters.

Paragraph 1910.263(k)(9)—Dough hopper design to protect employees' hands from moving parts.

Paragraph 1910.263(k)(12)(i)—Lockouts for servicing pan cooling towers.

Paragraph 1910.263(k)(13)—Covers for chocolate kettles.

Paragraph 1910.263(k)(17)—Covers for peanut cooling trucks.

Paragraph (1) of 1910.263 sets standards for bakery ovens and associated fuel burning equipment. A review of the evidence and comments has enabled OSHA to select a significant number of provisions for revocation without adversely affecting employee safety. Fourteen provisions are revoked because the subject is covered by alternate provisions, 56 provisions are revoked on the basis that they are design requirements for manufacturers of ovens, five provisions are revoked because they relate to public safety or property protection, eight provisions being revoked are subject to the authority of local building code or fire department officials, and eight provisions are revoked because they are now obsolete or inconsequential.

The current codes applicable for ovens and fuel burning systems are: Standard for Ovens and Furnaces, Design, Location, and Equipment, NFPA No. 86A; National Electrical Code, NFPA No. 70; Standard for the Storage and Handling of Liquefied Petroleum Gases, NFPA No. 58; National Fuel Gas Code, NFPA No. 54; and Standard for the Installation of Oil Burning Equipment, NFPA No. 31. These codes provide detailed information for the design and installation of ovens. They reflect current technology and are referenced by local building code officials and insurance companies in approving ovens used in bakeries.

Paragraph 1910.263(l)(1)(i)—which requires ovens to be located with due regard for the safety of persons from casualties such as fire, explosion or

escape of fuel is revoked. This subject is covered adequately by 1910.263(1)(1)(vii) which directs that ovens be located to eliminate exposure of persons to injury from fire or explosion and prohibits ovens adjoining locker, lunch or sales rooms and passageways or exits.

Paragraph 1910.263(1)(1)(ii) requires that ovens either be built on noncombustible foundations or have an insulated sole and a ventilated space of at least 3 inches provided so the floor beneath will not exceed a temperature of 160° F. This rule is revoked because the type of foundation and construction relative to floors is subject to the authority of building code or fire department officials at the time of construction and installation.

Paragraph 1910.263(1)(1)(iii) which requires insulation on the crown of any oven and ventilation to keep the ceiling temperature from rising above 200° F is revoked. This is a design and construction feature-subject to the authority of local building and fire code enforcing authorities at the time of construction.

Paragraph 1910.263(1)(1)(iv) which requires oven ducts and stacks to have clearance or insulation when passing through walls or ceilings to keep temperatures of combustible ceilings from rising above 200° F is revoked. This is a design and construction feature subject to the authority of local building and fire code enforcing authorities at the time of construction.

Paragraph 1910.263(1)(1)(v) which covers fireproofing of columns or structural members passing through ovens to keep their temperature below 160° F is revoked. This is a design and construction feature subject to the authority of local building and fire code enforcing authorities at the time of construction.

Paragraph 1910.263(1)(1)(vi) which requires ovens to be accessible with proper space provided for functioning of explosion vents is revoked. This is a design and construction feature subject to the authority of local building and fire code enforcing authorities at the time of construction.

Paragraph 1910.263(1)(2)(i) which requires ovens to be protected from corrosion or deterioration is revoked. This is a design and construction feature subject to the authority of local building and fire code enforcing authorities at the time of construction.

Paragraph 1910.263(1)(2)(ii) which requires the roof of an oven to be strong enough to withstand such loads as employees climbing on or in ovens is revoked. This is a design requirement subject to control of the manufacturer.

Paragraph 1910.263(1)(3)(ii)(a) which sets requirements for ovens and fuel system piping connections is re-

voked. This is a design and construction feature subject to the authority of local building and fire code enforcing authorities at the time of construction.

Paragraph 1910.263(1)(3)(ii)(b) is revoked because the requirement to use good material for pipe and fittings free of defects is a responsibility of the fire and building code officials and is a part of a specification followed by the builder and installer of the oven.

Paragraph 1910.263(1)(4)(i) is revoked as this internal reference identifies the 1910.110 standard for Storage and Handling of Liquefied Petroleum Gas the source of the applicable regulations.

Paragraph 1910.263(1)(4)(ii) is a design requirement for inspirators on gas burning systems which fuel system manufacturers are guided by to insure proper functioning of the system. This rule is revoked.

Paragraph 1910.263(1)(4)(iii) requires the interlocking of dampers and the gas supply to prevent admission of gas when damper is closed. This is a design feature subject to the control of fuel system manufacturers and installers and it is revoked.

Paragraph 1910.263(1)(4)(iii)(a) requires secondary air ducts below each burner extending full length with air inlets placed outside the baking chamber. This is a design requirement subject to the control of the oven manufacturer and is revoked.

Paragraph 1910.263(1)(4)(iii)(b) requires a specific size hole in oven stack dampers with atmospheric gas-burning systems which is a design requirement for oven manufacturers and installers. The provision is revoked.

Paragraph 1910.263(1)(4)(iv) requires burners to be equipped with gas pilots or electric ignition with an exception for certain burners equipped with quick acting combustion safeguards. Hand torch ignition for initial lightings only is also provided. These requirements relate to design of the system and manufacturers are guided by the provision and the latest standards for bakery ovens in NFPA 86A of 1977. The provision is revoked.

Paragraph 1910.263(1)(4)(v) relates to the maintenance of a stable flame by perforated pipe, ribbon, slot, tip or similar type burners under all draft conditions. This is a design requirement subject to the control of the manufacturer and is revoked.

Paragraph 1910.263(1)(4)(vi) requires that burner design preclude any backfire or blow off within the operating range. This is a design requirement subject to the control of the manufacturer and is revoked.

Paragraph 1910.263(1)(4)(vi)(a) requires burners used on premixed gas systems to be capable of instant ignition in normal or steam-laden oven at-

mosphere or under any other conditions which might extinguish the flame. This is a design requirement subject to the control of the manufacturer and is revoked.

Paragraph 1910.263(1)(4)(vi)(b) requires each burner to be equipped with electric or gas ignition. This is a design requirement subject to the control of the manufacturer and is revoked.

Paragraph 1910.263(1)(4)(vii) prescribes criteria for design, construction and machinery to insure perfect alignment of inspirator and burner which are design requirements. This is a design requirement subject to the control of the manufacturer and is revoked.

Paragraph 1910.263(1)(4)(vii)(a) prohibits a valve or other obstruction between the inspirator and the burner. This is a design requirement subject to the control of the manufacturer and is revoked.

Paragraph 1910.263(1)(4)(vii)(b) requires adjusting screws for inspirators. This is a design requirement subject to the control of the manufacturer and is revoked.

Paragraph 1910.263(1)(4)(vii)(c) requires positive locking means for air adjustment. This is a design requirement subject to the control of the manufacturer and is revoked.

Paragraph 1910.263(1)(4)(vii)(d) requires oven to inspirator air adjustment. This is a design requirement subject to the control of the manufacturer and is revoked.

Paragraph 1910.263(1)(4)(vii)(e) requires inspirator mounting to consider the possibility of a backfire. This is a design requirement subject to the control of the manufacturer and is revoked.

Paragraph 1910.263(1)(4)(vii)(f) requires that high pressure inspirators not be used under low air conditions. This is a design requirement subject to the control of the manufacturer and is revoked.

Paragraph 1910.263(1)(4)(vii)(g) requires a positive locking device on certain inspirating sets. This is a design requirement subject to the control of the manufacturer and is revoked.

Paragraph 1910.263(1)(4)(viii) requires the installation of low-pressure proportioning inspirators with zero governors with no valve or other obstruction before the burner. This is a design requirement subject to the control of the manufacturer and is revoked.

Paragraph 1910.263(1)(4)(ix) requires that certain features be incorporated in two-pipe systems. This is a design requirement subject to the control of the manufacturer and is revoked.

Paragraph 1910.263(1)(5)(i) requires installation of certain equipment associated with burners and is revoked be-

cause the equipment designer controls the installation of such equipment.

Paragraph 1910.263(1)(5)(i)(a) requires protection against certain fire and explosion hazards and is revoked. These design and installation requirements are set by equipment designers and manufacturers.

Paragraph 1910.263(1)(5)(i)(b) requires that all diaphragm and similar chamber be connected to the outside atmosphere and is revoked because it is a system design requirement not controlled by the employer.

Paragraph 1910.263(1)(5)(i)(c) requires an automatic safety shutoff valve in the mixing valve gas line and is revoked because it is an installation requirement provided by the equipment manufacturer and supplier or installer.

Paragraph 1910.263(1)(5)(i)(d) specifies the location of air inlets of gas mixing machines and is revoked because it is an installation design requirement not controlled by the employer.

Paragraph 1910.263(1)(5)(ii) deals with obstructions between mixing blowers and burners and is revoked because installation is prescribed by the builder/manufacturer of the equipment and installation.

Paragraph 1910.263(1)(5)(ii)(a) is concerned with mixing blowers construction which is not within the purview of the employer, therefore, it is revoked.

Paragraph 1910.263(1)(5)(ii)(b) is concerned with installation of a pressure regulator at the mixing valve inlet. The requirement is revoked because it is an installation function specified by the equipment manufacturer.

Paragraph 1910.263(1)(5)(ii)(c) concerns construction requirements of mixing blowers and is revoked since this is a product design feature not controlled by the employer.

Paragraph 1910.263(1)(5)(ii)(d) deals with provision of automatic safety shutoff valves and is revoked because it is an installation requirement set by the manufacturer.

Paragraph 1910.263(1)(6)(i) requires conformance with NFPA 31-1968 for the storage and distribution of fuel oil in bakeries and is revoked. Such a requirement is under the control of other authorities when the system is constructed such as local building code and fire safety officials.

Paragraph 1910.263(1)(6)(ii) requires oil burner approval by Underwriters' Laboratories, Inc., and is revoked since this is an installation requirement not controlled by the employer.

Paragraph 1910.263(1)(6)(ii)(a) sets pilot or ignition requirements and is an installation design feature not controlled by the employer and is, therefore, revoked.

Paragraph 1910.263(1)(6)(ii)(b) requires protection against flame failure hazards and is an installation and design feature not controlled by the employer. It is, therefore, revoked.

Paragraph 1910.263(1)(6)(ii)(c) sets certain system installation and design requirements which would be prescribed by the design and set by the manufacturer. It is therefore revoked.

Paragraph 1910.263(1)(6)(ii)(d) sets certain damper arrangement requirements and is revoked since this is an equipment design function not controlled by the employer.

Paragraph 1910.263(1)(6)(ii)(e) sets certain installation and design requirements for oil burners and is revoked since these are for the guidance of equipment manufacturers.

Paragraph 1910.263(1)(6)(ii)(f) sets system design requirements for the preheating of oil and is revoked. This is a system installation design requirement not under the control of the employer.

Paragraph 1910.263(1)(6)(ii)(g) sets certain installation design requirements for air pressure and oil supply and is revoked since this function is not controlled by the employer.

Paragraph 1910.263(1)(6)(iii) requires a pressure cutoff valve between the pump and nozzle and is revoked since this is a system design function not controlled by the employer.

Paragraph 1910.263(1)(6)(iv) sets certain requirements concerning air atomizing burners and is revoked since these are system design requirements for equipment manufacturers.

Paragraph 1910.263(1)(6)(v) sets certain design requirements concerning rotary-type mechanical atomizing burners and is revoked since these requirements are not controlled by the employer.

Paragraph 1910.263(1)(6)(vi) establishes requirements for evaporator-type burners on oil-fired ovens. This paragraph is revoked because it is a system design requirement of the oven manufacturer.

Paragraph 1910.263(1)(6)(vii) establishes pilot light requirements for ovens with "vaporizers." This is an oven design parameter and is revoked because it is subject to a manufacturer's overall system's design in making a safe oven.

Paragraph 1910.263(1)(7)(i) establishes requirements for solid-fuel firing systems, which requirements are now obsolete, as other fuels are now used in bakeries. The rule is revoked.

Paragraph 1910.263(1)(7)(ii)(a) requires mechanical stokers and is revoked because such equipment is obsolete.

Paragraph 1910.263(1)(7)(ii)(b) requires mechanical, stoker-fired system dampers and is revoked because these systems are no longer in use.

Paragraph 1910.263(1)(8)(i) refers to Subpart S of Part 1910 for electrical heating equipment regulations. This reference provision is revoked because Subpart S is applicable under the provisions of 1910.5.

Paragraph 1910.263(1)(8)(ii) requiring protection from electric shock by open heating elements is revoked because the hazard is covered by 1910.309(a) NEC, Article 422-2.

Paragraph 1910.263(1)(9)(iv)(b) requires electric circuits of ignition systems to comply with Subpart S, Electrical. This reference is revoked because Subpart S is applicable.

Paragraph 1910.263(1)(9)(v)(c) requiring valve packing glands to be designed so as to prevent binding by excessive tightening is a valve manufacturer design feature and the requirement is revoked.

Paragraph 1910.263(1)(9)(v)(d) requiring electrically operated safety shutoff valves by opened only be electric power is a design criterion applicable to firms who make such valves. It is revoked.

Paragraph 1910.263(1)(9)(ix)(a) requiring connection of ovens to flues or chimneys of ample size is for the efficient operation and is based on oven design specifications. It is revoked.

Paragraph 1910.263(1)(9)(ix)(b) requires chimneys to be inspected after installation or repair. The provision is revoked because it is concerned with property condition and not worker protection.

Paragraph 1910.263(1)(9)(ix)(c) requiring proper support of flue pipe or breeching is for the proper functioning of the oven or protection from damage. The rule is revoked because it is covered by applicable NFPA codes.

Paragraph 1910.263(1)(9)(ix)(d) setting a limit for flue pipe entry into chimneys is for the protection of the pipe and proper functioning of the oven and is revoked as it is not related to employee safety.

Paragraph 1910.263(1)(9)(ix)(e) requiring the flue pipe to be cemented and sealed to the chimney to prevent air infiltration is for oven efficiency and not employee safety and is revoked.

Paragraph 1910.263(1)(9)(ix)(f) requiring a means for regulating draft on natural draft ovens is a design feature prescribed for oven manufacturers and installers to assure efficient operation. The provision is revoked.

Paragraph 1910.263(1)(9)(ix)(g) requiring dampers with minimum and maximum stops and the providing of burner turnoff means when the damper is closed is a design requirement which is revoked.

Paragraph 1910.263(1)(9)(x) requiring check valves in fuel lines to prevent air backing up into the line is a design requirement which is revoked.

Paragraph 1910.263(l)(9)(xi)(a) which requires gas regulators to maintain manifold pressures within 10 percent of operating pressure is a design criterion. The requirement is revoked.

Paragraph 1910.263(l)(9)(xi)(b) prohibits weight and lever-type regulators and states that regulator springs shall be covered by a housing. This is a design requirement which is revoked.

Paragraph 1910.263(l)(9)(xi)(c) requiring gas pressure regulators to be vented when access to the atmosphere is necessary for operation is revoked because it deals with the design features of the equipment.

Paragraph 1910.263(l)(9)(xii) is concerned with the connection of lines to the atmosphere which are required to sense atmospheric pressure on one side of flexible membranes. This detailed requirement of oven design is revoked.

Paragraph 1910.263(l)(9)(xiii) is concerned with filtering air supplied to mixing flues and burners. It is concerned with property protection and is revoked.

Paragraph 1910.263(l)(11)(iii) provides for preventilating devices to be fitted on ovens. This design feature is revoked.

Paragraph 1910.263(l)(11)(iv) requires fans to be made of temperature resistant materials to prevent rupture of the wheel. This design feature protects the fan from deterioration and insures reliable efficient operation. The rule is revoked because it is not relevant to employee safety.

Paragraph 1910.263(l)(11)(v) requires protection of the fan wheel from the flame of burners, which is a design feature and is revoked.

Paragraph 1910.263(l)(11)(vi) requires protection from overheating of ovens and fans of direct, recirculating ovens. The provision is for property protection and is revoked.

Paragraph 1910.263(l)(11)(vii) requiring access to elevated burners by means of permanent steps is revoked because this is covered by 1910.24(b).

Paragraph 1910.263(l)(12)(i) requires flue-type ovens to be operated to insure less than atmospheric pressure in the flues. This design consideration is revoked.

Paragraph 1910.263(l)(12)(ii) requiring protection of gas burners against flame failure is revoked because 1910.263(l)(9)(v)(h) covers this requirement.

Paragraph 1910.263(l)(12)(iii) requiring UL listed combustion safeguards is a design requirement for oven manufacturers. The provision is revoked.

Paragraph 1910.263(l)(12)(iv) requiring solid-fuel stoker fired flue-type ovens to have interlocked stack damper and stoker is revoked because such equipment is obsolete.

Paragraph 1910.263(l)(13)(i) requiring safety shutoff valves is covered by 1910.263(l)(9)(v)(g) and (h) and is revoked.

Paragraph 1910.263(l)(13)(ii) requires annual testing by repeated explosions for parts of ovens and is revoked because the practice is obsolete as a method for detecting leaks.

Paragraph 1910.263(l)(14) requiring the use of devices to protect against overfiring and overheating is a design requirement and is revoked.

Paragraph 1910.263(l)(15)(i) requiring combustion safeguards is covered by 1910.263(l)(9)(v)(h) and is revoked.

Paragraph 1910.263(l)(15)(ii) establishes specific design requirements for explosion vents in duct systems. This is a detailed design requirement and subject to NFPA codes. It is therefore revoked.

Paragraph 1910.263(l)(15)(iv) requiring fans and other parts to comply with paragraph (11) is revoked as unnecessary detail.

Paragraph 1910.263(l)(16) requires compliance with Subpart S, of this Part. It is revoked because it contains unnecessary reference to another Subpart of 1910 which is applicable when appropriate.

Upon reexamination of the evidence, OSHA has determined that, in the best interest of worker protection, the following provisions in paragraph 1910.263(l) should not be revoked:

Paragraph 1910.263(l)(1)(vii)—Location of ovens.

Paragraph 1910.263(l)(3)(i)—Emergency stop buttons on ovens.

Paragraph 1910.263(l)(3)(iii)—Main shutoff valves for ovens.

Paragraph 1910.263(l)(3)(iii)(a)—Access to main shutoff valves.

Paragraph 1910.263(l)(3)(iii)(b)—Lock out of main shutoff valves for oven maintenance.

Paragraph 1910.263(l)(8)(iii)—Main disconnect switch for electrical ovens.

Paragraph 1910.263(l)(9)(i)—Maintenance of protecting devices.

Paragraph 1910.263(l)(9)(ii)—Inspection of safety devices on ovens.

Paragraph 1910.263(l)(9)(iii)(a)—Gas pilot light protection.

Paragraph 1910.263(l)(9)(iii)(b)—Pilot lights for multiple burners.

Paragraph 1910.263(l)(9)(iv)—Combustion safeguards.

Paragraph 1910.263(l)(9)(iv)(a)—Ignition-fuel interlocks on ovens.

Paragraph 1910.263(l)(9)(iv)(c)—Combustion safeguards.

Paragraph 1910.263(l)(9)(v)—Safety shutoff valves.

Paragraph 1910.263(l)(9)(v)(a)—Safety shutoff valves.

Paragraph 1910.263(l)(9)(v)(b)—Safety shutoff valves testing.

Paragraph 1910.263(l)(9)(v)(e)—Safety shutoff valves.

Paragraph 1910.263(l)(9)(v)(f)—Safety shutoff valves.

Paragraph 1910.263(l)(9)(v)(g)—Safety shutoff valves.

Paragraph 1910.263(l)(9)(v)(h)—Safety shutoff valves.

Paragraph 1910.263(l)(9)(vi)—Safety shutoff valves.

Paragraph 1910.263(l)(9)(vii)—Oven fuel control.

Paragraph 1910.263(l)(9)(viii)—Explosion vents on ovens.

Paragraph 1910.263(l)(9)(viii)(a)—Explosion door attachment.

Paragraph 1910.263(l)(9)(viii)(b)—Explosion vent shields.

Paragraph 1910.263(l)(9)(viii)(c)—Exemption for explosion vents.

Paragraph 1910.263(l)(9)(xi)—Requirement for gas pressure regulator.

Paragraph 1910.263(l)(9)(xi)(d)—Relief valves for gas pressure regulators.

Paragraph 1910.263(l)(10)(i)—Direct-fired oven safeguards.

Paragraph 1910.263(l)(10)(ii)—Pre-ventilation of ovens before firing.

Paragraph 1910.263(l)(11)(i)—Interconnect of circulating fans and fuel shutoff valve.

Paragraph 1910.263(l)(11)(ii)—Protection of burner flame.

Paragraph 1910.263(l)(15)(iii)—Duct testing on ovens.

§ 1910.264 Laundry machinery and operations. Paragraph 1910.264(a) defines terms used in the standard for laundry machinery and operations. The paragraphs which reference several of these definitions are being revoked, as unnecessary. The revocation of definitions such as point of operation, prime mover and mechanical power transmission will eliminate any possible conflicts with the definition of these terms in 1910.212 and 1910.219. Also, the definitions for machines such as washing machine, laundry, ironer, sewing machine and extractor are revoked because they do not have to be defined in a manner different from the common usage of these terms. The entire list of definitions are revoked in 1910.264(a):

1910.264(a)(1)

1910.264(a)(2)

1910.264(a)(3)

1910.264(a)(4)

1910.264(a)(5)

1910.264(a)(6)

1910.264(a)(7)

1910.264(a)(8)

1910.264(a)(9)

1910.264(a)(10)

1910.264(a)(11)

1910.264(a)(12)

1910.264(a)(13)

1910.264(a)(14)

1910.264(a)(15)

1910.264(a)(16)

1910.264(a)(17)

1910.264(a)(18)

1910.264(a)(19)

1910.264(a)(20)

1910.264(a)(21)

Paragraph 1910.264(b) is not revoked because it is a statement covering the scope of the section on laundry machinery and operations.

Paragraph 1910.264(c) provides point of operation guarding for washroom machines such as washing machines, extractors, starching and drying machines, fans, shakers, and finishing machines like ironers and sewing machines. A review of the comments and the evidence disclosed that the hazards of these machines are covered by other machinery safeguarding regulations. Therefore, 21 of these provisions in 1910.264(c) are revoked. Two of the machines in this paragraph are obsolete and no longer used in laundry operations, and these provisions are revoked.

Paragraph 1910.264(c)(1)(i) provides for prevention of injury to fingers of operators by means of a spring-compression device or a two-hand control or a barrier guard. Paragraph 1910.212(a)(3)(ii) covers the safeguarding of this type of hazard, therefore, the provision is revoked.

Paragraph 1910.264(c)(1)(ii)(a) requires each washing machine cover to be interlocked with the driving mechanism to prevent movement of the cylinder when the outer door is open, or to prevent opening the door when the cylinder is in motion. This hazard is covered by 1910.212(a)(3)(ii) and 1910.212(a)(4); therefore, the provision is revoked.

Paragraph 1910.264(c)(1)(iii)(a) requiring extractors to be fitted with a cover is revoked because the hazard is covered by 1910.212(a)(1) and 1910.212(a)(3)(ii).

Paragraph 1910.264(c)(1)(iii)(b) which requires interlocking of the extractor covers to prevent the cover being opened when the extractor is in motion, or to prevent starting of the extractor with the cover open is revoked. The hazard of rotating containers is covered by 1910.212(a)(3)(ii) and 1910.212(a)(4) which requires the interlocking of enclosures.

Paragraph 1910.264(c)(1)(iii)(c) requires the extractor to be secured in position to eliminate vibration. It also requires the manufacturer's rating giving the maximum permissible speed to be stamped on the inside of the basket. The anchoring of machines is covered by 1910.212(b) and the practice of stamping extractor baskets has been discontinued; therefore, the requirements are revoked.

Paragraph 1910.264(c)(1)(iii)(d) provides for an engine stop approved by Underwriters' Laboratories, Inc., and a speed limiting governor. There is a suggestion for a "no field" release to be provided when a DC motor drives the extractor. Both of these regulations are obsolete because they refer to older machines formerly in use

which were driven by engines or DC motors rather than the modern equipment which uses AC motors. The provision is revoked.

Paragraph 1910.264(c)(1)(iv) requires a safety bar or other guard across the front of pressure rolls of power wringers to stop the machine when struck by the operator or another person. This point of operation hazard is covered by 1910.212(a)(3)(ii) and the provision is revoked.

Paragraph 1910.264(c)(2)(i) requiring an enclosure or guard for a cylinder or box-type starching machine is revoked because the hazard of the machine rotating or contact with moving parts is covered by 1910.212(a)(1).

Paragraph 1910.264(c)(2)(ii) provides for the guarding of fan blades with wire mesh or screening with openings, which will reject a ball 1/2-inch in diameter. The hazard of fan blades is covered by 1910.212(a)(5) and this provision is revoked.

Paragraph 1910.264(c)(2)(iii)(a) requires interlocking of the drying tumbler inside cylinder and the outer door to prevent the door from opening when the cylinder is in motion, or the cylinder from moving when the door is open. The hazard is covered by the requirement for interlocks in 1910.212(a) and this provision is revoked.

Paragraph 1910.264(c)(2)(iv)(a)(1) requires an interlock on each shaker or clothes tumbler. The requirement of 1910.212(a)(4) covers this requirement and the provision is revoked.

Paragraph 1910.264(c)(2)(iv)(a)(2) requires guarding of the tumbler when it is in motion and this is covered by 1910.212(a)(4). The provision is revoked.

Paragraph 1910.264(c)(2)(iv)(b)(1) requires interlocks for double-cylinder-type shakers or clothes tumblers which is covered by 1910.212(a)(4) and the provision is revoked.

Paragraph 1910.264(c)(3)(i) provides for roll-dampening machine safeguarding by enclosure and point of operation guarding which is covered by 1910.212(a)(1) and (a)(3)(ii). The provision is revoked.

Paragraph 1910.264(c)(3)(i)(a) is revoked because it is a type of safeguarding acceptable for point of operation protection, which is also acceptable under 1910.212(a)(1).

Paragraph 1910.264(c)(3)(i)(b) is revoked because it is a type of safeguarding acceptable for point of operation protection, which is also acceptable under 1910.212(a)(1).

Paragraph 1910.264(c)(3)(ii)(a) requires a safety bar or guard for flatwork ironer pressure rolls. The guarding of the rolls is also required. Both of these provisions are revoked, because 1910.212(a)(3)(ii) covers this type of hazard at the point of oper-

ation, and 1910.212(a)(1) covers protection from rotating parts.

Paragraph 1910.264(c)(3)(ii)(b) prescribes guarding of body-type ironers and other types to protect employees from the hazard of the point of operation or from the hazard of burns. The provision is revoked because these hazards are covered by 1910.212(a)(1) and (a)(3)(ii).

Paragraph 1910.264(c)(3)(ii)(c) covers protection of employees operating combined rotary-bosom and coat ironers from the hazards of the point of operation and the hot roll or shoe. The hazards are covered by 1910.212(a)(1) and (a)(3)(ii) and the requirement is revoked.

Paragraph 1910.264(c)(3)(ii)(d) requires ironing presses to be provided with a guard or other means for the protection of employees from the point of operation. This hazard is covered by 1910.212(a)(3)(ii) and the provision is revoked.

Paragraph 1910.264(c)(4)(i) requires the guarding of sewing machines which is covered by 1910.212(a)(3)(ii). The provision is revoked.

Paragraph 1910.264(c)(4)(ii) provides for guards on exhaust or ventilating fans which is adequately covered by 1910.212(a)(5). The provision is revoked.

Paragraph 1910.264(c)(4)(iv) requires a means for disconnecting the source of power for machines. The regulation is concerned with belt and pulley drives which are obsolete and no longer used. The provision is revoked.

Upon reexamination of the evidence, OSHA has determined that, in the best interest of worker protection, the other paragraphs in 1910.264(c) should not be revoked.

Paragraph 1910.264(d) prescribes the operating rules for laundries. Two provisions being revoked are covered by other regulations. Two are obsolete, three others are revoked because they address equipment protection, employee comfort and laundry protection. One provision is adequately covered by another regulation in 1910.264.

Paragraph 1910.264(d)(1)(i)(a) requires laundry room floors to be properly constructed, watertight and free of projections or dangerous gradients with good drainage and no water accumulation.

Paragraphs 1910.22(a)(2), 1910.23(a)(9) and 1910.141(a)(3)(i), (a)(3)(ii), and (a)(3)(iii) cover the construction, care and maintenance of floors, and sanitary as well as dry conditions. The provision is revoked.

Paragraph 1910.264(d)(1)(i)(b) requires floors to be free from nails, splinters, loose boards and be maintained in a safe condition, all of which are covered by 1910.22(a)(2) and 1910.141(a)(3)(iii). The provision is revoked.

Paragraph 1910.264(d)(1)(ii) requires table tops, shelves, and machine woodwork to be properly surfaced and free from splinters. This provides for protection from damage of materials being processed and is not important to employee safety; therefore, the provision is revoked.

Paragraph 1910.264(d)(1)(iv) requires artificial ventilation to be installed for comfortable working conditions. This comfort requirement is revoked.

Paragraph 1910.264(d)(2)(i)(b) prohibits operation of machines until they are repaired and properly adjusted. This equipment performance and protection rule is revoked.

Paragraph 1910.264(d)(2)(ii) requires steam pressure apparatus to be operated in accordance with the manufacturer's pressure rating, which in some cases requires the use of pressure reducing valves and safety valves. The requirement is covered by 1910.264(c)(4)(ii)(b) and the provision is revoked.

Paragraph 1910.264(d)(2)(iii) requires all machines to be stopped when being oiled, cleaned, adjusted, or repaired. This obsolete requirement is a carryover from the time when machines were operated from a common power shaft with belts and the maintenance of one machine required stopping all machines. All machines in use today have a separate power source, thus making it easy to stop the machine for maintenance. The paragraph is therefore revoked.

Paragraph 1910.264(d)(2)(iv) requiring the dismantling of each extractor every year is revoked because the practice is no longer recommended by manufacturers, and is directed to property protection.

Upon review of the evidence and the comments, OSHA has determined that in the best interests of worker protection the other paragraphs in 1910.264(d) should not be revoked.

Paragraph 1910.264(e) prescribes regulations for machine guarding other than points of operation. Two provisions being revoked are covered by other regulations.

Paragraph 1910.264(e)(1) requires guarding of moving parts such as gears, sprockets, belts, pulleys, and shafts in accordance with 1910.219, which is applicable without this reference. The regulation is revoked because 1910.219 (c)(1), (f)(1), (f)(3), (f)(4), and (c)(1) cover these hazards.

Paragraph 1910.264(e)(2) covers guarding of prime movers in accordance with 1910.219, which is applicable without this reference, therefore, the provision is revoked.

Paragraph 1910.264(f) prescribes the general industrial safety standards to be used in laundries and is revoked as it contains unnecessary reference;

such general standards continue to be applicable whenever otherwise appropriate.

Paragraph 1910.264(e)(2) covers guarding of prime movers in accordance with 1910.219, which is applicable without this reference, therefore, the provision is revoked.

Paragraph 1910.264(f) prescribes the General Industry Safety Standards to be used in laundries.

Paragraph 1910.264(f)(1) refers to reference standards listed in 1910.264(f)(2) and applies the general coverage standards of Part 1910 under the rules of construction in 1910.5. This regulation is revoked, because general standards are applicable as appropriate under 1910.5.

Paragraph 1910.264(f)(2) lists under (i) through (viii) the national consensus standards which have some application to laundry operations. These referenced standards as listed in 1910.264(f)(2)(i) through 1910.264(f)(2)(viii) are revoked because several appear in Part 1910 subparts, some have been amended and now conflict with the national consensus standard, and some are design standards for equipment manufacturers.

Upon reexamination of the evidence, OSHA has determined that, in the best interest of worker protection, the following provisions in section 1910.264 should not be revoked:

Paragraph 1910.264(c)(1)(ii)(b)—Holding door open on washing machines.

Paragraph 1910.264(c)(2)(iii)(b)—Holding door open on drying tumblers.

Paragraph 1910.264(c)(2)(iv)(b)(2)—Holding door open on shakers.

Paragraph 1910.264(c)(2)(v)—Exception of holding door open for automatic machines.

Paragraph 1910.264(c)(4)(iii)(a)—Insulating steam pipes to prevent burns.

Paragraph 1910.264(c)(4)(iii)(b)—Safety valves on steam lines.

Paragraph 1910.264(d)(1)(iii)—Precautions for handling soiled clothes.

Paragraph 1910.264(d)(1)(v)—Employee instruction.

Paragraph 1910.264(d)(2)(i)(a)—Prohibition against removing safety guards.

V. ECONOMIC IMPACT

In accordance with Executive Order 11821 (39 FR 41501, November 29, 1974), Executive Order 11949 (42 FR 1017, January 5, 1977) and OMB Circular No. A-107 (January 28, 1975), OSHA assessed the potential economic impact of the proposal which is resulting in this final rule. Based on the six economic thresholds, OSHA concluded that the subject matter of the proposal was not a "major" action which would necessitate further economic impact evaluation or the preparation of an Economic Impact Statement. No

new evidence has come before the Agency to alter its initial findings in the area of economic impact. Therefore upon consideration of the entire record using the same criteria, OSHA has concluded that this final rule is not a "major" action, and that no Economic Impact Statement is required, and so certifies.

VI. EFFECTIVE DATE

The revocations listed herein shall be effective as of November 24, 1978.

VII. AUTHORITY

This document was prepared under the direction of Eula Bingham, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

Accordingly, pursuant to section 4(b)(2), 6(b) and 8(c) of the Occupational Safety and Health Act of 1970 (84 Stat. 1592, 1593, 1596, 29 U.S.C. 653, 655, 657), the specific statutes referred to in section 4(b)(2), Secretary of Labor's Order No. 8-76 (41 FR 25059), and 29 CFR Part 1911, Part 1910 of Title 29, Code of Federal Regulations, is hereby amended by revoking those selected standards or portions thereof in 29 CFR Part 1910 which are listed below.

Signed at Washington, D.C., this 20th day of October, 1978.

These amendments are effective on November 24, 1978.

EULA BINGHAM,

Assistant Secretary of Labor.

Part 1910 of Title 29, Code of Federal Regulations, is amended as follows:

§ 1910.214 Cooperage machinery [Amended]

1. Paragraph (a)(1) of § 1910.214 is revoked.
2. Paragraph (a)(2) of § 1910.214 is revoked.
3. Paragraph (a)(3) of § 1910.214 is revoked.
4. Paragraph (a)(4) of § 1910.214 is revoked.
5. Paragraph (b)(1) of § 1910.214 is revoked.
6. Paragraph (b)(2) of § 1910.214 is revoked.
7. Paragraph (b)(3) of § 1910.214 is revoked.
8. Paragraph (c)(1) of § 1910.214 is revoked.
9. Paragraph (c)(2) of § 1910.214 is revoked.
10. Paragraph (d)(1) of § 1910.214 is revoked.
11. Paragraph (d)(2) of § 1910.214 is revoked.
12. Paragraph (e)(1) of § 1910.214 is revoked.
13. Paragraph (e)(2) of § 1910.214 is revoked.

14. Paragraph (f)(1) of § 1910.214 is revoked.
 15. Paragraph (f)(2) of § 1910.214 is revoked.
 16. Paragraph (f)(3) of § 1910.214 is revoked.
 17. Paragraph (g)(1) of § 1910.214 is revoked.
 18. Paragraph (g)(2) of § 1910.214 is revoked.
 19. Paragraph (g)(3) of § 1910.214 is revoked.
 20. Paragraph (h)(1) of § 1910.214 is revoked.
 21. Paragraph (h)(2) of § 1910.214 is revoked.
 22. Paragraph (i) of § 1910.214 is revoked.
 23. Paragraph (j) of § 1910.214 is revoked.
 24. Paragraph (k) of § 1910.214 is revoked.
 25. Paragraph (l) of § 1910.214 is revoked.
 26. Paragraph (m) of § 1910.214 is revoked.
 27. Paragraph (n)(1) of § 1910.214 is revoked.
 28. Paragraph (n)(2) of § 1910.214 is revoked.
 29. Paragraph (o) of § 1910.214 is revoked.
 30. Paragraph (p) of § 1910.214 is revoked.
 31. Paragraph (q)(1) of § 1910.214 is revoked.
 32. Paragraph (q)(2) of § 1910.214 is revoked.
 33. Paragraph (r) of § 1910.214 is revoked.
 34. Paragraph (s) of § 1910.214 is revoked.
 35. Paragraph (t) of § 1910.214 is revoked.
 36. Paragraph (u) of § 1910.214 is revoked.
 37. Paragraph (v) of § 1910.214 is revoked.
 38. Paragraph (w) of § 1910.214 is revoked.

§ 1910.263 Bakery equipment [Amended].

39. Paragraph (a)(2) of § 1910.263 is revoked.
 40. Paragraph (b)(1) of § 1910.263 is revoked.
 41. Paragraph (b)(2) of § 1910.263 is revoked.
 42. Paragraph (b)(3) of § 1910.263 is revoked.
 43. Paragraph (b)(4) of § 1910.263 is revoked.
 44. Paragraph (b)(5) of § 1910.263 is revoked.
 45. Paragraph (b)(6) of § 1910.263 is revoked.
 46. Paragraph (b)(7) of § 1910.263 is revoked.
 47. Paragraph (b)(8) of § 1910.263 is revoked.
 48. Paragraph (b)(9) of § 1910.263 is revoked.

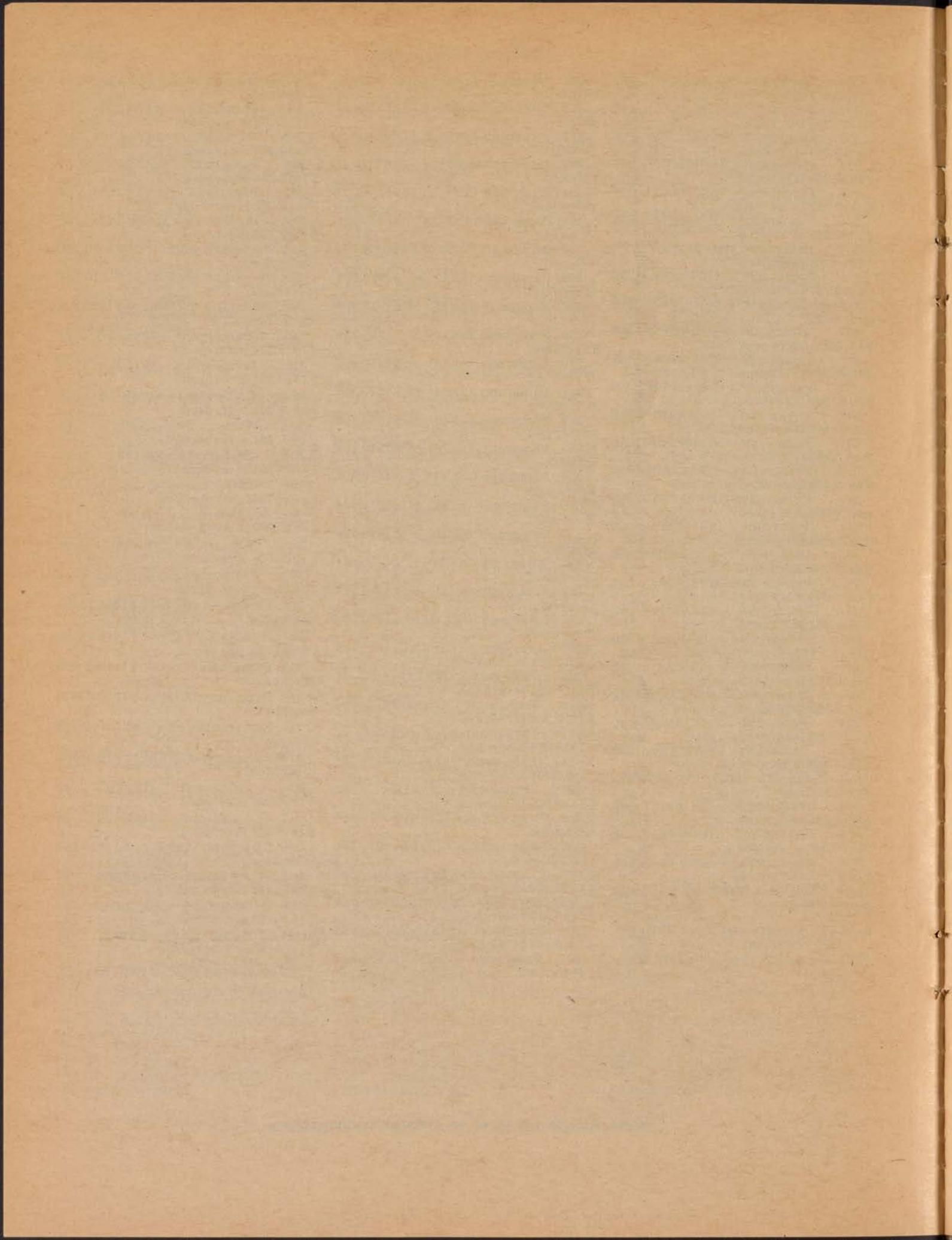
49. Paragraph (b)(10) of § 1910.263 is revoked.
 50. Paragraph (b)(11) of § 1910.263 is revoked.
 51. Paragraph (b)(12) of § 1910.263 is revoked.
 52. Paragraph (b)(13) of § 1910.263 is revoked.
 53. Paragraph (b)(14) of § 1910.263 is revoked.
 54. Paragraph (c)(1) of § 1910.263 is revoked.
 55. Paragraph (c)(4) of § 1910.263 is revoked.
 56. Paragraph (c)(6) of § 1910.263 is revoked.
 57. Paragraph (c)(7) of § 1910.263 is revoked.
 58. Paragraph (d)(1)(i)(a) of § 1910.263 is revoked.
 59. Paragraph (d)(1)(i)(c) of § 1910.263 is revoked.
 60. Paragraph (d)(1)(ii) of § 1910.263 is revoked.
 61. Paragraph (d)(1)(iii) of § 1910.263 is revoked.
 62. Paragraph (d)(1)(iii)(a) of § 1910.263 is revoked.
 63. Paragraph (d)(1)(iii)(b) of § 1910.263 is revoked.
 64. Paragraph (d)(iii)(c) of § 1910.263 is revoked.
 65. Paragraph (d)(1)(iii)(d) of § 1910.263 is revoked.
 66. Paragraph (d)(1)(iv) of § 1910.263 is revoked.
 67. Paragraph (d)(1)(v) of § 1910.263 is revoked.
 68. Paragraph (d)(1)(vi) of § 1910.263 is revoked.
 69. Paragraph (d)(1)(vii) of § 1910.263 is revoked.
 70. Paragraph (d)(1)(viii) of § 1910.263 is revoked.
 71. Paragraph (d)(2)(iii) of § 1910.263 is revoked.
 72. Paragraph (d)(3)(i) of § 1910.263 is revoked.
 73. Paragraph (d)(3)(ii) of § 1910.263 is revoked.
 74. Paragraph (d)(3)(iii) of § 1910.263 is revoked.
 75. Paragraph (d)(3)(iv) of § 1910.263 is revoked.
 76. Paragraph (d)(3)(viii) of § 1910.263 is revoked.
 77. Paragraph (d)(4)(i) of § 1910.263 is revoked.
 78. Paragraph (d)(4)(ii) of § 1910.263 is revoked.
 79. Paragraph (d)(5)(i) of § 1910.263 is revoked.
 80. Paragraph (d)(5)(ii) of § 1910.263 is revoked.
 81. Paragraph (d)(6)(i) of § 1910.263 is revoked.
 82. Paragraph (d)(6)(iii) of § 1910.263 is revoked.
 83. Paragraph (d)(6)(v) of § 1910.263 is revoked.
 84. Paragraph (d)(7)(i) of § 1910.263 is revoked.

85. Paragraph (d)(7)(ii) of § 1910.263 is revoked.
 86. Paragraph (d)(8)(ii) of § 1910.263 is revoked.
 87. Paragraph (d)(8)(iii) of § 1910.263 is revoked.
 88. Paragraph (d)(9)(i) of § 1910.263 is revoked.
 89. Paragraph (d)(9)(ii) of § 1910.263 is revoked.
 90. Paragraph (d)(9)(iv) of § 1910.263 is revoked.
 91. Paragraph (d)(9)(v) of § 1910.263 is revoked.
 92. Paragraph (d)(9)(vi) of § 1910.263 is revoked.
 93. Paragraph (d)(10) of § 1910.263 is revoked.
 94. Paragraph (e)(1)(ii) of § 1910.263 is revoked.
 95. Paragraph (e)(1)(v)(c) of § 1910.263 is revoked.
 96. Paragraph (e)(1)(vi) of § 1910.263 is revoked.
 97. Paragraph (e)(1)(vii) of § 1910.263 is revoked.
 98. Paragraph (e)(1)(ix) of § 1910.263 is revoked.
 99. Paragraph (e)(1)(xi) of § 1910.263 is revoked.
 100. Paragraph (e)(1)(xii) of § 1910.263 is revoked.
 101. Paragraph (e)(1)(xiii) of § 1910.263 is revoked.
 102. Paragraph (e)(1)(xiv) of § 1910.263 is revoked.
 103. Paragraph (e)(1)(xv) of § 1910.263 is revoked.
 104. Paragraph (e)(1)(xvi) of § 1910.263 is revoked.
 105. Paragraph (e)(1)(xvii) of § 1910.263 is revoked.
 106. Paragraph (e)(2)(i) of § 1910.263 is amended to read: "(2) *Vertical Mixers.* (i) Vertical mixers shall comply with paragraphs (e)(1)(i), (iii), (ix), and (x), of this section."
 107. Paragraph (e)(2)(ii) of § 1910.263 is revoked.
 108. Paragraph (e)(2)(v) of § 1910.263 is revoked.
 109. Paragraph (f)(1) of § 1910.263 is revoked.
 110. Paragraph (f)(2) of § 1910.263 is revoked.
 111. Paragraph (f)(4) of § 1910.263 is revoked.
 112. Paragraph (f)(5) of § 1910.263 is revoked.
 113. Paragraph (f)(6) of § 1910.263 is revoked.
 114. Paragraph (g)(4) of § 1910.263 is revoked.
 115. Paragraph (g)(5) of § 1910.263 is revoked.
 116. Paragraph (g)(6) of § 1910.263 is revoked.
 117. Paragraph (i)(6)(i) of § 1910.263 is revoked.
 118. Paragraph (i)(6)(iv) of § 1910.263 is revoked.
 119. Paragraph (i)(8)(i) of § 1910.263 is revoked.

120. Paragraph (i)(8)(ii) of § 1910.263 is revoked.
121. Paragraph (i)(9) of § 1910.263 is revoked.
122. Paragraph (i)(10)(i) of § 1910.263 is revoked.
123. Paragraph (i)(10)(ii) of § 1910.263 is revoked.
124. Paragraph (i)(11)(ii) of § 1910.263 is revoked.
125. Paragraph (i)(14)(i) of § 1910.263 is revoked.
126. Paragraph (i)(15)(i) of § 1910.263 is revoked.
127. Paragraph (i)(15)(iii) of § 1910.263 is revoked.
128. Paragraph (i)(15)(iv) of § 1910.263 is revoked.
129. Paragraph (i)(16) of § 1910.263 is revoked.
130. Paragraph (i)(17) of § 1910.263 is revoked.
131. Paragraph (i)(18) of § 1910.263 is revoked.
132. Paragraph (i)(19)(i) of § 1910.263 is revoked.
133. Paragraph (i)(19)(ii) of § 1910.263 is revoked.
134. Paragraph (i)(20)(i) of § 1910.263 is revoked.
135. Paragraph (i)(21)(i) of § 1910.263 is revoked.
136. Paragraph (i)(21)(iii) of § 1910.263 is revoked.
137. Paragraph (i)(23)(ii) of § 1910.263 is revoked.
138. Paragraph (i)(23)(iii) of § 1910.263 is revoked.
139. Paragraph (j)(1)(i) of § 1910.263 is revoked.
140. Paragraph (j)(1)(ii) of § 1910.263 is revoked.
141. Paragraph (j)(1)(vi) of § 1910.263 is revoked.
142. Paragraph (j)(1)(vii)(a) of § 1910.263 is revoked.
143. Paragraph (j)(1)(vii)(b) of § 1910.263 is revoked.
144. Paragraph (j)(1)(vii)(d) of § 1910.263 is revoked.
145. Paragraph (j)(2)(i) of § 1910.263 is revoked.
146. Paragraph (j)(2)(ii) of § 1910.263 is revoked.
147. Paragraph (j)(2)(iv) of § 1910.263 is revoked.
148. Paragraph (j)(2)(v) of § 1910.263 is revoked.
149. Paragraph (j)(2)(vi) of § 1910.263 is revoked.
150. Paragraph (j)(2)(vii) of § 1910.263 is revoked.
151. Paragraph (k)(4) of § 1910.263 is revoked.
152. Paragraph (k)(7)(i) of § 1910.263 is revoked.
153. Paragraph (k)(8)(i) of § 1910.263 is revoked.
154. Paragraph (k)(8)(ii) of § 1910.263 is revoked.
155. Paragraph (k)(8)(iii) of § 1910.263 is revoked.
156. Paragraph (k)(8)(iv) of § 1910.263 is revoked.
157. Paragraph (k)(10) of § 1910.263 is revoked.
158. Paragraph (k)(11) of § 1910.263 is revoked.
159. Paragraph (k)(12)(ii) of § 1910.263 is revoked.
160. Paragraph (k)(12)(iii) of § 1910.263 is revoked.
161. Paragraph (k)(12)(iv) of § 1910.263 is revoked.
162. Paragraph (k)(12)(v) of § 1910.263 is revoked.
163. Paragraph (k)(12)(vi) of § 1910.263 is revoked.
164. Paragraph (k)(14) of § 1910.263 is revoked.
165. Paragraph (k)(15) of § 1910.263 is revoked.
166. Paragraph (k)(16) of § 1910.263 is revoked.
167. Paragraph (l)(1)(i) of 1910.263 is revoked.
168. Paragraph (l)(1)(ii) of 1910.263 is revoked.
169. Paragraph (l)(1)(iii) of 1910.263 is revoked.
170. Paragraph (l)(1)(iv) of § 1910.263 is revoked.
171. Paragraph (l)(1)(v) of § 1910.263 is revoked.
172. Paragraph (l)(1)(vi) of § 1910.263 is revoked.
173. Paragraph (l)(2)(i) of § 1910.263 is revoked.
174. Paragraph (l)(2)(ii) of § 1910.263 is revoked.
175. Paragraph (l)(3)(ii)(a) of § 1910.263 is revoked.
176. Paragraph (l)(3)(ii)(b) of § 1910.263 is revoked.
177. Paragraph (l)(4)(i) of § 1910.263 is revoked.
178. Paragraph (l)(4)(ii) of § 1910.263 is revoked.
179. Paragraph (l)(4)(iii) of § 1910.263 is revoked.
180. Paragraph (l)(4)(iii)(a) of § 1910.263 is revoked.
181. Paragraph (l)(4)(iii)(b) of § 1910.263 is revoked.
182. Paragraph (l)(4)(iv) of § 1910.263 is revoked.
183. Paragraph (l)(4)(v) of § 1910.263 is revoked.
184. Paragraph (l)(4)(vi) of § 1910.263 is revoked.
185. Paragraph (l)(4)(vi)(a) of § 1910.263 is revoked.
186. Paragraph (l)(4)(vi)(b) of § 1910.263 is revoked.
187. Paragraph (l)(4)(vii) of § 1910.263 is revoked.
188. Paragraph (l)(4)(vii)(a) of § 1910.263 is revoked.
189. Paragraph (l)(4)(vii)(b) of § 1910.263 is revoked.
190. Paragraph (l)(4)(vii)(c) of § 1910.263 is revoked.
191. Paragraph (l)(4)(vii)(d) of § 1910.263 is revoked.
192. Paragraph (l)(4)(vii)(e) of § 1910.263 is revoked.
193. Paragraph (l)(4)(vii)(f) of § 1910.263 is revoked.
194. Paragraph (l)(4)(vii)(g) of § 1910.263 is revoked.
195. Paragraph (l)(4)(viii) of § 1910.263 is revoked.
196. Paragraph (l)(4)(ix) of § 1910.263 is revoked.
197. Paragraph (l)(5)(i) of § 1910.263 is revoked.
198. Paragraph (l)(5)(i)(a) of § 1910.263 is revoked.
199. Paragraph (l)(5)(i)(b) of § 1910.263 is revoked.
200. Paragraph (l)(5)(i)(c) of § 1910.263 is revoked.
201. Paragraph (l)(5)(i)(d) of § 1910.263 is revoked.
202. Paragraph (l)(5)(ii) of § 1910.263 is revoked.
203. Paragraph (l)(5)(ii)(a) of § 1910.263 is revoked.
204. Paragraph (l)(5)(ii)(b) of § 1910.263 is revoked.
205. Paragraph (l)(5)(ii)(c) of § 1910.263 is revoked.
206. Paragraph (l)(5)(ii)(d) of § 1910.263 is revoked.
207. Paragraph (l)(6)(i) of § 1910.263 is revoked.
208. Paragraph (l)(6)(ii) of § 1910.263 is revoked.
209. Paragraph (l)(6)(ii)(a) of § 1910.263 is revoked.
210. Paragraph (l)(6)(ii)(b) of § 1910.263 is revoked.
211. Paragraph (l)(6)(ii)(c) of § 1910.263 is revoked.
212. Paragraph (l)(6)(ii)(d) of § 1910.263 is revoked.
213. Paragraph (l)(6)(ii)(e) of § 1910.263 is revoked.
214. Paragraph (l)(6)(ii)(f) of § 1910.263 is revoked.
215. Paragraph (l)(6)(ii)(g) of § 1910.263 is revoked.
216. Paragraph (l)(6)(iii) of § 1910.263 is revoked.
217. Paragraph (l)(6)(iv) of § 1910.263 is revoked.
218. Paragraph (l)(6)(v) of § 1910.263 is revoked.
219. Paragraph (l)(6)(vi) of § 1910.263 is revoked.
220. Paragraph (l)(6)(vii) of § 1910.263 is revoked.
221. Paragraph (l)(7)(i) of § 1910.263 is revoked.
222. Paragraph (l)(7)(ii)(a) of § 1910.263 is revoked.
223. Paragraph (l)(7)(ii)(b) of § 1910.263 is revoked.
224. Paragraph (l)(8)(i) of § 1910.263 is revoked.
225. Paragraph (l)(8)(ii) of § 1910.263 is revoked.
226. Paragraph (l)(9)(iv)(b) of § 1910.263 is revoked.
227. Paragraph (l)(9)(v)(c) of § 1910.263 is revoked.

- 228. Paragraph (1)(9)(v)(d) of § 1910.263 is revoked.
- 229. Paragraph (1)(9)(ix)(a) of § 1910.263 is revoked.
- 230. Paragraph (1)(9)(ix)(b) of § 1910.263 is revoked.
- 231. Paragraph (1)(9)(ix)(c) of § 1910.263 is revoked.
- 232. Paragraph (1)(9)(ix)(d) of § 1910.263 is revoked.
- 233. Paragraph (1)(9)(ix)(e) of § 1910.263 is revoked.
- 234. Paragraph (1)(9)(ix)(f) of § 1910.263 is revoked.
- 235. Paragraph (1)(9)(ix)(g) of § 1910.263 is revoked.
- 236. Paragraph (1)(9)(x) of § 1910.263 is revoked.
- 237. Paragraph (1)(9)(ix)(a) of § 1910.263 is revoked.
- 238. Paragraph (1)(9)(xi)(b) of § 1910.263 is revoked.
- 239. Paragraph (1)(9)(xi)(c) of § 1910.263 is revoked.
- 240. Paragraph (1)(9)(xii) of § 1910.263 is revoked.
- 241. Paragraph (1)(9)(xiii) of § 1910.263 is revoked.
- 242. Paragraph (1)(11)(iii) of § 1910.263 is revoked.
- 243. Paragraph (1)(11)(iv) of § 1910.263 is revoked.
- 244. Paragraph (1)(11)(v) of § 1910.263 is revoked.
- 245. Paragraph (1)(11)(vi) of § 1910.263 is revoked.
- 246. Paragraph (1)(11)(vii) of § 1910.263 is revoked.
- 247. Paragraph (1)(12)(i) of § 1910.263 is revoked.
- 248. Paragraph (1)(12)(ii) of § 1910.263 is revoked.
- 249. Paragraph (1)(12)(iii) of § 1910.263 is revoked.
- 250. Paragraph (1)(12)(iv) of § 1910.263 is revoked.
- 251. Paragraph (1)(13)(i) of § 1910.263 is revoked.
- 252. Paragraph (1)(13)(ii) of § 1910.263 is revoked.
- 253. Paragraph (1)(14) of § 1910.263 is revoked.
- 254. Paragraph (1)(15)(i) of § 1910.263 is revoked.
- 255. Paragraph (1)(15)(ii) of § 1910.263 is revoked.
- 256. Paragraph (1)(15)(iv) of § 1910.263 is revoked.
- 257. Paragraph (1)(16) of § 1910.263 is revoked.
- § 1910.264 Laundry machinery and operations [Amended].
- 258. Paragraph (a)(1) of § 1910.264 is revoked.
- 259. Paragraph (a)(2) of § 1910.264 is revoked.
- 260. Paragraph (a)(4) of § 1910.264 is revoked.
- 262. Paragraph (a)(5) of § 1910.264 is revoked.
- 263. Paragraph (a)(6) of § 1910.264 is revoked.
- 264. Paragraph (a)(7) of § 1910.264 is revoked.
- 265. Paragraph (a)(8) of § 1910.264 is revoked.
- 266. Paragraph (a)(9) of § 1910.264 is revoked.
- 267. Paragraph (a)(10) of § 1910.264 is revoked.
- 268. Paragraph (a)(11) of § 1910.264 is revoked.
- 269. Paragraph (a)(12) of § 1910.264 is revoked.
- 270. Paragraph (a)(13) of § 1910.264 is revoked.
- 271. Paragraph (a)(14) of § 1910.264 is revoked.
- 272. Paragraph (a)(15) of § 1910.264 is revoked.
- 273. Paragraph (a)(16) of § 1910.264 is revoked.
- 274. Paragraph (a)(17) of § 1910.264 is revoked.
- 275. Paragraph (a)(18) of § 1910.264 is revoked.
- 276. Paragraph (a)(19) of § 1910.264 is revoked.
- 277. Paragraph (a)(20) of § 1910.264 is revoked.
- 278. Paragraph (a)(21) of § 1910.264 is revoked.
- 279. Paragraph (c)(1)(i) of § 1910.264 is revoked.
- 280. Paragraph (c)(1)(ii)(a) of § 1910.264 is revoked.
- 281. Paragraph (c)(1)(iii)(a) of § 1910.264 is revoked.
- 282. Paragraph (c)(1)(iii)(b) of § 1910.264 is revoked.
- 283. Paragraph (c)(1)(iii)(c) of § 1910.264 is revoked.
- 284. Paragraph (c)(1)(iii)(d) of § 1910.264 is revoked.
- 285. Paragraph (c)(1)(iv) of § 1910.264 is revoked.
- 286. Paragraph (c)(2)(i) of § 1910.264 is revoked.
- 287. Paragraph (c)(2)(ii) of § 1910.264 is revoked.
- 288. Paragraph (c)(2)(iii)(a) of § 1910.264 is revoked.
- 289. Paragraph (c)(2)(iv)(a)(1) of § 1910.264 is revoked.
- 290. Paragraph (c)(2)(iv)(a)(a2) of § 1910.264 is revoked.
- 291. Paragraph (c)(2)(iv)(b)(1) of § 1910.264 is revoked.
- 292. Paragraph (c)(3)(i) of § 1910.264 is revoked.
- 293. Paragraph (c)(3)(i)(a) of § 1910.264 is revoked.
- 294. Paragraph (c)(3)(i)(b) of § 1910.264 is revoked.
- 295. Paragraph (c)(3)(ii)(a) of § 1910.264 is revoked.
- 296. Paragraph (c)(3)(ii)(b) of § 1910.264 is revoked.
- 297. Paragraph (c)(3)(ii)(c) of § 1910.264 is revoked.
- 298. Paragraph (c)(4)(i) of § 1910.264 is revoked.
- 299. Paragraph (c)(4)(i) of § 1910.264 is revoked.
- 300. Paragraph (c)(4)(ii) of § 1910.264 is revoked.
- 301. Paragraph (c)(4)(iv) of § 1910.264 is revoked.
- 302. Paragraph (d)(1)(i)(a) of § 1910.264 is revoked.
- 303. Paragraph (d)(1)(i)(b) of § 1910.264 is revoked.
- 304. Paragraph (d)(1)(ii) of § 1910.264 is revoked.
- 305. Paragraph (d)(1)(iv) of § 1910.264 is revoked.
- 306. Paragraph (d)(2)(i)(b) of § 1910.264 is revoked.
- 307. Paragraph (d)(2)(ii) of § 1910.264 is revoked.
- 308. Paragraph (d)(2)(iii) of § 1910.264 is revoked.
- 309. Paragraph (d)(2)(iv) of § 1910.264 is revoked.
- 310. Paragraph (e)(1) of § 1910.264 is revoked.
- 311. Paragraph (e)(2) of § 1910.264 is revoked.
- 312. Paragraph (f)(1) of § 1910.264 is revoked.
- 313. Paragraph (f)(2) of § 1910.264 is revoked.
- 314. Paragraph (f)(2)(i) of § 1910.264 is revoked.
- 315. Paragraph (f)(2)(ii) of § 1910.264 is revoked.
- 316. Paragraph (f)(2)(iii) of § 1910.264 is revoked.
- 317. Paragraph (f)(2)(iv) of § 1910.264 is revoked.
- 318. Paragraph (f)(2)(v) of § 1910.264 is revoked.
- 319. Paragraph (f)(2)(vi) of § 1910.264 is revoked.
- 320. Paragraph (f)(2)(vii) of § 1910.264 is revoked.
- 321. Paragraph (f)(2)(viii) of § 1910.264 is revoked.

[FR Doc. 78-30165 Filed 10-23-78; 8:45 am]



**Register
Federal Order**

TUESDAY, OCTOBER 24, 1978

PART IX



**CIVIL SERVICE
COMMISSION**

**DEPARTMENT OF
HEALTH,
EDUCATION, AND
WELFARE**



PRIVACY ACT OF 1974

**Additional Routine Use and New
System of Records**

[6325-01-M]

CIVIL SERVICE COMMISSION**PRIVACY ACT OF 1974****Proposed New Routine Use**

AGENCY: U.S. Civil Service Commission.

ACTION: Proposal for a new routine use for an existing system of records.

SUMMARY: The purpose of this document is to give notice, pursuant to 5 U.S.C. 552a(e)(11) of the Privacy Act of 1974, of intent to establish a new routine use, for limited duration, covering the disclosure of information to the Department of Health, Education, and Welfare (DHEW) from the central personnel data file (CPDF) for current Federal employees.

COMMENT DATE: Any interested party may submit written comments regarding the proposal. To be considered, comments must be received on or before November 24, 1978.

ADDRESS: Address comments to: Assistant Director for Workforce Information, Bureau of Personnel Management Evaluation, Room 6410, U.S. Civil Service Commission, 1900 E Street NW., Washington, D.C. 20415. Comments received will be made available for public inspection at the above address between 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION, CONTACT:

Mr. John Sanet or Mr. William Lynch, Office of Advisory Services, Bureau of Personnel Management Evaluation, 202-254-9790.

SUPPLEMENTAL INFORMATION: The published description of the affected system, General Personnel Records (CSC/GOVT-3), appears in the FEDERAL REGISTER of September 8, 1978 (43 FR 40106).

BACKGROUND: The Office of Inspector General of the Department of Health, Education, and Welfare (DHEW) is authorized under Pub. L. 94-505, section 205(a)(2), to request information necessary to accomplish the duties and responsibilities required by that Act from any Federal agency. As part of an effort to detect and prevent fraud in the supplemental security income (SSI) program, DHEW needs information concerning those Federal employees who are receiving SSI benefits. It should be noted that a current Federal employee who is also receiving SSI benefits does not necessarily indicate that the benefits are being improperly or fraudulently obtained by that individual.

The most efficient way of comparing the name of individuals who are receiving SSI benefits with those who are Federal civilian employees is for

the Civil Service Commission to provide certain data from its central personnel data file (CPDF) to DHEW. The release of an individual's name, grade, and duty station is permitted under the Commission's regulations implementing the Freedom of Information Act (5 U.S.C. 552). These regulations are found at § 294.702 of Title 5 of the Code of Federal Regulations.

Under the new routine use, in addition to the three data elements cited above, the Civil Service Commission will provide from the CPDF the individual's social security number and date of birth to DHEW. DHEW will then "match" this identifying information with its SSI files and use the results as an indicator that a more thorough review of the recipient's eligibility to receive payments is required.

Although the social security number and date of birth of an individual are not considered to be public information, anticipated benefits to the public justify disclosure of this information for matching with SSI records under safeguards established by DHEW to protect against unauthorized data disclosure and to respect individual rights. Disclosure under the proposed routine use will permit DHEW to assure greater integrity of the SSI benefit program and, additionally, will be compatible with the personnel management responsibility for oversight of Federal employees' conduct, particularly with regard to the requirement that employees pay just financial obligations in a proper and timely manner.

An important limitation associated with the Commission's supplying of the data is that DHEW will not make nor will they retain copies of the Civil Service Commission's magnetic tapes containing the information, but will return all the source tapes to the Commission for destruction after use. This will limit the possibility of unauthorized use of the data. In addition, since access is pursuant to a Privacy Act routine use, an accounting of disclosure is made as required by 5 U.S.C. 552a(e).

PROPOSED ROUTINE USE: The proposed routine use which follows will be added to the Civil Service Commission's governmentwide system of general personnel records (CSC/GOVT-3). The current notice of this system is published at 43 FR 40106 et seq. (September 8, 1978).

To disclose the name, date of birth, social security number, pay grade, work schedule, and duty station location of Federal employees to the Department of Health, Education, and Welfare in connection with that agency's supplemental security income matching program. Pursuant to Pub. L. 94-505, the Department of Health,

Education, and Welfare is conducting a matching program to reduce fraud and unauthorized payments in Federal programs, and to collect debts owed to the Federal Government. This routine use will be operative for a limited period of 6 months from its effective date (May 27, 1979).

The comment period on the routine use ends at the close of business 30 days after the date of this notice (November 24, 1978). This system shall be amended as proposed without further notice 33 days from the publication date (November 27, 1978) unless comments are received on or before November 24, 1978 which would result in a contrary determination and require republication for further comment.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
*Executive Assistant
to the Commissioners.*

Dated: October 23, 1978.

[FR Doc. 78-30201 Filed 10-23-78; 10:00 am]

[4110-12-M]

**DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE**

Office of the Secretary

PRIVACY ACT OF 1974

Report on New System

AGENCY: Department of Health, Education, and Welfare

ACTION: Notification of report on new system, SSI/CSC Temporary Matching File, HEW/OS/OIG.

SUMMARY: The Department of Health, Education, and Welfare (HEW) proposes to establish a new system of records entitled SSI/CSC Temporary Matching File HEW/OS/OIG, under the Privacy Act and in accordance with the OMB Supplemental Guidance for Matching Programs.

DATES: The Department has sent new system reports for this system to the Congress and OMB on October 13, 1978. The Department has requested a waiver of the 60 day advance notification required by OMB Circular A-108. If this waiver is granted, the system notice, with the exception of the routine uses, will be effective on the date the waiver is granted. The routine uses will be effective November 24, 1978 provided no comment is received which results in a contrary determination. If the waiver is not granted, the system notice will be effective 60 days from the date submitted to OMB.

ADDRESS: Comments should be addressed to Acting Director, Fair Information Practice Staff, Department of Health, Education, and Welfare, 200 Independence Avenue SW., Washing-

ton, D.C. 20201. Comments received will be available for inspection in Room 526-F, Hubert H. Humphrey Building, at the above address.

FOR FURTHER INFORMATION CONTACT:

John M. Allen, Privacy Coordinator, Office of the Inspector General, Department of Health, Education, and Welfare, Room 5545, North Building, 330 Independence Avenue SW., Washington, D.C. 20201 or call 202-472-6735.

SUPPLEMENTARY INFORMATION: The Department of Health, Education, and Welfare has initiated a major project called Project Match II, to reduce fraud and abuse in the supplementary security income (SSI) program as administered by HEW. This project seeks identify and take action, where appropriate, against those Federal employees who are illegally receiving such benefits.

Supplemental security income (SSI) is a Federal income maintenance program for the aged (65 or older), blind and disabled in the 50 States and the District of Columbia. Through monthly payments the program provides a floor of income for aged, blind, and disabled people who have little or no income or resources. During fiscal year 1977, the SSI program provided an estimated \$6 billion in Federal benefit payments to 4.2 million recipients.

The matching program is needed to eliminate from the SSI program those individuals who should not be receiving payments because they are gainfully employed by the Federal Government. The results of a small pilot project using only HEW employees and comparing them with the SSI rolls has hown considerable promise.

The SSA uses many methods in assuring that only those who are eligible remain on the SSI rolls. The Office of Program Integrity within SSA has as one of its responsibilities the oversight of the SSI program to insure that any ineligible individuals are removed from the rolls and duly prosecuted for any fraudulent activity.

The project uses as its primary source of information data collected by means of a comparison by computer of the entire Federal civilian workforce obtained from the U.S. Civil Service Commission with the recipient rolls of the supplementary security income program provided by the Social Security Administration, HEW. The major criterion for comparison is the social security number.

Cases identified through this computer comparison of files are forwarded to the Federal employer for verification of employment status and to obtain quarterly wage information for each individual for the previous eight quarters. This information is then for-

warded to the Social Security Administration so that the cases may be included in the normal validation process to determine whether individuals are receiving SSI benefits to which they are not entitled.

The validation process takes place at the SSA district offices and SSA Integrity Staff regional and central offices. Where a determination of improper payment occurs the SSI benefit is terminated or adjusted appropriately. All cases where there is sufficient evidence of fraud are referred to the appropriate U.S. attorneys for investigation and prosecution. All cases where fraud has been determined, whether prosecuted or declined by the U.S. attorneys, are referred to the appropriate Federal agencies employing the individuals involved in the fraudulent activity. It is expected that the Federal agencies will pursue the application of administrative sanctions in accordance with their established procedures.

In addition to the disclosures provided for under the routine uses, disclosures from this system of records may be made in accordance with the following disclosure provisions of the Privacy Act (5 U.S.C. 522a(b)):

To those officers and employees of the agency which maintains the record who have a need for the record in the performance of their duties;

As required by the Freedom of Information Act;

To another agency or instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity if the activity is authorized by law, and if the head of the agency or instrumentality has made a written request to the agency which maintains the record specifying the particular portion desired and the law enforcement activity for which the record is sought;

To a person pursuant to a showing of compelling circumstances affecting the health or safety of an individual if upon such disclosure, notification is transmitted to the last known address of such individual;

To either House of Congress, or, to the extent of matter within its jurisdiction, any committee or subcommittee thereof, any joint committee of Congress or subcommittee of any such joint committee;

To the Comptroller General, or any of his authorized representatives, in the course of the performance of the duties of the General Accounting Office; or

Pursuant to the order of a court of competent jurisdiction.

Dated: October 13, 1978.

LEONARD D. SCHAEFFER,
Assistant Secretary for
Management and Budget.

09-90-0078

System Name:

SSI/SCS Temporary Matching File, HEW/OS/OIG.

Security Classification:

None.

System Location:

Office of the Inspector General, DHEW, Room 2111, SSA Annex, Baltimore, Md. 21235.

Categories of individuals covered by the system:

All Federal employees covered under Civil Service Commission Central Personnel Data File (CPDF) who are also included in the Supplementary Security Income (SSI) file of the Social Security Administration.

Categories of records in the system:

Civil Service Commission Central Personnel Data File extract including name of employee, date of birth, Social Security Number, work status, pay grade and duty station, and Supplementary Security Income Record File data including names, Social Security Number, address, SSI application data, disability data, income and resource data and payment data used in the administration of the SSI program.

Authority for maintenance of the system:

Pub. L. 94-505.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

A record from this system of records may be disclosed as a "routine use" to a Federal, State or local agency maintaining civil, criminal or other relevant enforcement records or other pertinent records, such as current licenses, if necessary to obtain a record relevant

to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit.

A record from this system of records may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the record is relevant and necessary to the requesting agency's decision on the matter.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of the individual.

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

A record from this system may be disclosed as a "routine use" to a Federal, State, or local agency maintaining pertinent records if necessary to obtain a record relevant to a Department decision concerning the determi-

nation of initial or continuing eligibility for program benefits.

Policies and practices for storing, retrieving, accessing, retrieving, and disposing of records in the system:

Storage:

The records are stored on computer tape files and computer printed listings.

Retrievability:

The records are retrieved by computer using Social Security Number as the principal matching criterion. We disclose the records within the Department to the Social Security Administration for investigation and redetermination of SSI benefits.

Safeguards:

Direct access is restricted to authorized staff members of the Office of the Inspector General. Access within HEW is limited to those employees who are directly involved in the matching program on a need-to-know basis. Computer files and printed listings are maintained in security type safes or lock bar file cabinets. They are safeguarded in accordance with the provisions of the National Bureau of Standards Federal Information Processing Standards 41 and 31, and the HEW Information Processing Standards, HEW ADP Systems Manual, Part 6, "ADP Systems Security Policy". All computer tapes are password protected prohibiting unauthorized access.

Retention and disposal:

In instances of computer matching of files, only those records which meet predetermined criteria are maintained. All records which do not meet these criteria are destroyed. All original source computer tapes will be returned within 60 days. All records obtained as a result of the matching program will be degaussed as soon as possible within 6 months except for those rec-

ords which are necessary to the completion of pending law enforcement activities or administrative activities of the matching program. Paper listings will be either shredded or burned.

System Manager(s) and address:

Inspector General/Deputy Inspector General, Room 5262, North Building, U.S. Department of Health, Education, and Welfare, 330 Independence Avenue SW., Washington, D.C. 20201.

Notification procedure:

Contact: Privacy Act Coordinator, Department of Health, Education, and Welfare, Office of the Inspector General, Room 5545, North Building, 330 Independence Avenue SW., Washington, D.C. 20201.

Record access procedures:

Same as notification procedure. Requestors should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulation (45 CFR, Section 5b.5(a)(2)).

Contesting Record procedures:

Contact the official at the address specified under notification procedure above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7)).

Record source categories:

Records are furnished from the Central Personnel Data File (CPDF) maintained by the U.S. Civil Service Commission and from the Supplemental Security Income Record (SSR) maintained by the Social Security Administration, Department of Health, Education, and Welfare.

Systems exempted from certain provisions of the Act:

None.

[FR Doc. 78-30202 Filed 10-23-78; 10:00 am]