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FRIDAY, FEBRUARY 17, 1978

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Monday	Tuesday	Wednesday	Thursday	Friday
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	HEW/NIH			HEW/NIH
	HEW/PHS			HEW/PHS

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H.R. 2719 ..... Pub. L. 95-230
To authorize the Secretary of the Interior to contract with the Middle Rio Grande Conservancy District of New Mexico for the payment of operation and maintenance charges on certain Pueblo Indian lands. (Feb. 15, 1978; 92 Stat. 28) Price: $.50

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To amend the Interstate Commerce Act to authorize appropriations for the Office of Rail Public Counsel for fiscal year 1978. (Feb. 15, 1978; 92 Stat. 29) Price: $.50

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rules and regulations

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[6325-01]

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Department of Agriculture

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: Positions of Agriculture Commodity Graders (Tobacco), GS-9 and below, and Clerks, GS-4 and below for seasonal employment not to exceed 1,280 hours in a service year, are excepted under Schedule A because it is impracticable to examine for them.

EFFECTIVE DATE: February 17, 1978.

FOR FURTHER INFORMATION:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3113(f)(5) is added as set out below:

§ 213.3113 Department of Agriculture.

* * * * *

(f) *Agricultural Marketing Service.* * * *

(5) Positions of Agricultural Commodity Graders (Tobacco), GS-9 and below, and Clerks, GS-4 and below for temporary seasonal employment on a full-time, part-time, or intermittent basis not to exceed 1,280 hours in a service year.

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954-1958 Comp., p. 218.)

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

[FR Doc. 78-4454 Filed 2-16-78; 8:45 am]

[6325-01]

PART 213—EXCEPTED SERVICE

Executive Office of the President; Department of Defense; Department of Justice; Department of Labor; Department of Health, Education, and Welfare; Department of Energy; Department of Housing and Urban Development

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: The following positions are excepted under Schedule C because they are confidential in nature:

Executive Office of the President—one position of Senior Policy Analyst, Office of Science and Technology Policy.

Department of Defense—(1) one additional position of Special Assistant to the Deputy Assistant Secretary (Policy Plans and NSC Affairs), Office of the Assistant Secretary of Defense for International Security Affairs, and (2) one position of Assistant for NATO Rationalization, Force Planning and Cooperative Programs to the Deputy Assistant Secretary (European and NATO Affairs), Office of the Assistant Secretary of Defense for International Security Affairs.

Department of Justice—one position of Special Assistant to the Assistant Attorney General, Civil Division.

Department of Labor—one additional position of Special Assistant to the Under Secretary.

Department of Health, Education, and Welfare—one position of Director, Office of Intergovernmental Affairs.

Department of Energy—(1) one position of Technical Assistant to a Member of the Commission; (2) one position of Assistant to the Chairman. This reestablishes these two positions which formerly existed at the Federal Power Commission before its functions were absorbed into the Department of Energy on September 30, 1977.

Department of Housing and Urban Development—one position of Special Assistant to the Deputy Assistant Secretary for Insured and Direct Loan Programs.

EFFECTIVE DATE: February 17, 1978.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3303(k)(3), 213.3306(a)(99), 213.3310(e)(3), and 213.3316(q)(9) are added; 213.3306(a)(98), 213.3315(a)(13), 213.3331(c)(3), (4), and 213.3384(b)(19) are amended; and, 213.3303(k) is reestablished as set out below:

§ 213.3303 Executive Office of the President.

* * * * *

(k) *Office of Science and Technology Policy.* * * *

(3) One Senior Policy Analyst, Office of the Assistant Director for National Security, International, and Space Affairs.

* * * * *

§ 213.3306 Department of Defense.

(a) Office of the Secretary. * * *

(98) Two Special Assistants to the Deputy Assistant Secretary (Policy Plans and NSC Affairs), Office of the Assistant Secretary of Defense for International Security Affairs.

(99) One Assistant for NATO Rationalization, Force Planning and Cooperative Programs to the Deputy Assistant Secretary (European and NATO Affairs), Office of the Assistant Secretary of Defense for International Security Affairs.

* * * * *

§ 213.3310 Department of Justice.

* * * * *

(e) *Civil Division.* * * *

(3) One Special Assistant to the Assistant Attorney General.

* * * * *

§ 213.3315 Department of Labor.

(a) *Office of the Secretary.* * * *

(13) Two Special Assistants to the Under Secretary.

* * * * *

§ 213.3316 Department of Health, Education, and Welfare.

* * * * *

(q) *Office of the Special Assistant to the Secretary for Civil Rights.* * * *

(9) One Director, Office of Intergovernmental Affairs.

* * * * *

§ 213.3331 Department of Energy.

* * * * *

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

(3) Three Assistants to the Chairman.

(4) Six Technical Assistants to Members of the Commission.

* * * * *

§ 213.3384 Department of Housing and Urban Development.

* * * * *

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

(19) One Executive Assistant and one Special Assistant to the Deputy Assistant Secretary for Insured and Direct Loan Programs.

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954–1958 Comp., p. 218.)

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

[FR Doc. 78-4455 Filed 2-16-78; 8:45 am]

[6325-01]

PART 213—EXCEPTED SERVICE

Department of Justice; Department of the Interior; Department of Energy

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: The following positions are excepted under Schedule C because they are confidential in nature.

Department of Justice—One position of Confidential Assistant (Private Secretary) to the Chairman, U.S. Parole Commission.

Department of the Interior—One position of Confidential Assistant to the Deputy Director for Programming, Bureau of Outdoor Recreation.

Department of Energy—(1) One position of Staff Assistant to the Director, Executive Secretariat; (2) one position of Confidential Assistant (Secretary) to the Director, Executive Secretariat; (3) this amendment also changes the title of one Private Secretary to the Executive Director, formerly excepted under Schedule C in the Federal Power Commission and subsequently transferred to the Department of Energy on September 30, 1977, to one Private Secretary to the Executive Director, Federal Energy Regulatory Commission. This position has never been officially published in the FEDERAL REGISTER under the Department of Energy prior to this time. This change in title is appropriate in order to reflect the current title of the superior.

EFFECTIVE DATE: February 17, 1978.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3310(z); 213.3312(m)(4); 213.3331 (c)(5), (s) (1), (2) are added as set out below:

§ 213.3310 Department of Justice.

* * * * *

(z) *U.S. Parole Commission.*
(1) One Confidential Assistant to the Deputy Director for Programming.

* * * * *

§ 213.3312 Department of the Interior.

* * * * *

(m) *Bureau of Outdoor Recreation.* * * *

(4) One Confidential Assistant to the Deputy Director for Programming.

* * * * *

§ 213.3331 Department of Energy.

* * * * *

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

(5) One Private Secretary to the Executive Director.

* * * * *

(s) *Office of the Director, Executive Secretariat.*
(1) One Staff Assistant to the Director.
(2) One Confidential Assistant (Secretary) to the Director.

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954–1958 Comp., p. 218.)

For the U.S. Civil Service Commission.

JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78-4511 Filed 2-16-78; 8:45 am]

[3410-02]

Title 7—Agriculture

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Lemon Reg. 133; Lemon Reg. 132, Amdt. 1]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action establishes the quantity of California-Arizona lemons that may be shipped to the fresh market during the period February 19–25, 1978, and increases the quantity of such lemons that may be so shipped during the period February 12-18. Such action is needed to provide for orderly marketing of fresh lemons for the periods specified due to the marketing situation confronting the lemon industry.

DATES: The regulation becomes effective February 19, 1978, and the amendment is effective for the period February 12-18, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: *Findings.* Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee, established under this marketing order, and upon other information, it is found that the limitation of handling of lemons, as hereafter provided, will tend to effectuate the declared policy of the act.

The committee met on February 14, 1978, to consider supply and market conditions and other factors affecting the need for regulation, and recommended quantities of lemons deemed advisable to be handled during the specified weeks. The committee reports the demand for lemons is similar to last week.

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

§ 910.433 Lemon Regulation 133

Order. (a) The quantity of lemons grown in California and Arizona which may be handled during the period February 19, 1978, through February 25, 1978, is established at 230,000 cartons.

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

2. Paragraph (a) of § 910.432 Lemon Regulation 131 (43 FR 5796) is amended to read as follows:

§ 910.432 Lemon Regulation 131.

(a) The quantity of lemons grown in California and Arizona which may be handled during the period February 12, 1978 through February 18, 1978, is established at 240,000 cartons.

* * * * *

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

Dated: February 15, 1978.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 78-4624 Filed 2-16-78; 11:18 am]

[7590-01]

Title 10—Energy

CHAPTER I—NUCLEAR REGULATORY COMMISSION

EXPORT AND IMPORT OF NUCLEAR FACILITIES AND MATERIALS

Export and Import of Nuclear Facilities and Materials

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission is amending its regulations by adding a new part providing for standards, procedures and rules of practice for licensing the export and import of utilization facilities, source, byproduct and special nuclear materials. Conforming changes are also made to other parts of the Commission's regulations relating to export and import matters. The new part, designed to codify in one place export and import regulations, deals principally with the standards for grant or denial of license applications; the information required to be submitted in license applications; the general procedures followed for Commission review and for obtaining Executive Branch views on license applications; public notification of applications; the conduct and format of public procedures on export and import license applications; and enforcement actions and rulemaking relating to exports and imports.

EFFECTIVE DATE: May 3, 1978.

NOTE.—The Nuclear Regulatory Commission has submitted this rule to the Comptroller General for such reviews as may be appropriate under the Federal Reports Act, as amended, 44 U.S.C. 3512. The date on which the reporting requirement of this rule becomes effective, unless advised to the contrary, accordingly reflects inclusion of the 45-day period which that statute allows for such review (44 U.S.C. 3512(c)(2).)

FOR FURTHER INFORMATION CONTACT:

Thomas F. Dorian, Esq., Office of the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555; telephone: 301-492-7437 or Marvin R. Peterson, Office of International Programs, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555; telephone: 301-492-7984.

SUPPLEMENTARY INFORMATION: On June 30, 1977, in 42 FR 33317, the Commission published for comment a proposed new part 110 to CFR entitled "Export and Import of Nuclear Facilities and Materials", with conforming changes made to other parts of the Commission's rules.

Under the Atomic Energy Act of 1954, as amended, and the Energy Reorganization Act of 1974, as amended, the Nuclear Regulatory Commission (Commission) is responsible for licensing the export and import of nuclear utilization facilities (nuclear Reactors), and source, byproduct and special nuclear materials.

During its first year as an independent regulatory agency, the Commission, in conjunction with the Executive Branch, developed procedures for obtaining the unified view of Executive Branch agencies on pending export and import license applications. These procedures were made formal for the Executive Branch in early 1976 by issuance of Executive Order 11902. Also, beginning in January of 1976 the Commission undertook a comprehensive examination of its export and import licensing provisions. This rule is a result of this study and the comments received on the proposed rule.

The Commission, Executive Branch, and Congress are examining the substantive standards and criteria for granting or denying export license applications to be added to Part 110. Any changes to the substantive standards and criteria set forth in these regulations will be the subject of a separate rulemaking and FEDERAL REGISTER notice.

SUMMARY OF REGULATIONS

The export and import regulations are set forth in a new Part 110 entitled "Export and Import of Nuclear Facilities and Materials". Conforming changes are made to other parts of the Commission's rules.

The basic purposes of the new Part 110 are twofold: first, to reflect in its procedures the basic differences between the Commission's export and import licensing functions and its domestic licensing functions; and second, to consolidate the Commission's export and import licensing provisions, presently scattered throughout the Commission's regulations, into one part for the convenience of the public.

Briefly, the new Part 110 includes:

(1) Required contents of export and import license applications;

(2) Procedures for Commission review of export and import license applications;

(3) Exemptions from licensing requirements and grants of general licenses for exports and imports;

(4) Substantive standards for grant or denial of export and import license applications;

(5) The Commission's relationship to Executive Branch agencies in nuclear export and import matters;

(6) Provisions for public notification of the receipt of export and import license applications;

(7) Procedures for public participation in the Commission's export and import licensing review process, including provisions for granting or denying requests for hearings and petitions for leave to intervene, and provisions for the hearings themselves.

(8) Provisions regarding access to, and introduction of, classified information in hearings;

(9) Procedures for rulemaking on nuclear export and import matters;

(10) Recordkeeping requirements for export and import licensees; and

(11) Enforcement actions concerning export and import licenses.

Most of the substantive provisions have been developed (with some revision and updating) from other parts of the Commission's regulations on nuclear exports and imports in 10 CFR Parts 30, 31, 32, 33, 36, 40, 50 and 70. However, the provisions in the new Part 110 regarding public participation in the Commission's nuclear export and import licensing review process differ from the procedures used in the Commission's domestic licensing review process and deserve further explanation.

PUBLIC PARTICIPATION IN EXPORT AND IMPORT LICENSING

On March 2, 1976, the Commission received, for the first time in its history or the history of its predecessor, the Atomic Energy Commission (AEC), a petition for leave to intervene and request for a hearing on an export license application. The Commission held that the petitioners lacked standing to intervene in the case, but decided as a matter of discretion that the conduct of a legislative-type hearing would be in the public interest. *Edlow International Company* (Tarapur), 3 NRC 563 at 568 and 580 (1976).

The Commission adopted procedures which afforded the petitioners in that proceeding an opportunity to make their views known in a manner and under a procedural format compatible with the orderly conduct of the licensing process and the nature of the issues involved in the matter, includ-

ing sensitive foreign relations and national security considerations. Id., at 568, 580, 590–591. The procedural aspects of the Commission's decision in *Edlow* are presently under judicial review by the U.S. Court of Appeals for the D.C. Circuit.

In a subsequent opinion on another export license application, the Commission discussed its export licensing procedures, the sensitive and policy-oriented character of the issues involved, and the Commission's treatment of these matters. *Westinghouse Electric Corporation* (ASCO II), 3 NRC 739 (1976).

The Commission is authorized by the Atomic Energy Act to issue a license for a particular export or import only after determining that issuance would not be inimical to the common defense and security of the United States, or the health and safety of the United States public, and (in the case of nuclear facilities and certain nuclear materials) after determining that the export would be within the scope of, and consistent with, an agreement for cooperation in the civil uses of atomic energy between the United States and another nation or group of nations.

Pursuant to section 123 of the Atomic Energy Act, agreements for cooperation become effective only after: (1) They are approved and authorized by the President of the United States, who is required to make a determination in writing that "the performance of the proposed agreement will promote and will not constitute an unreasonable risk to the common defense and security"; and (2) they have been submitted to Congress for review under a special statutory arrangement.

The statutory finding which the Commission makes before issuing an export or import license often requires consideration of highly sensitive foreign policy and national security matters, some of which may have an impact well beyond the specific nuclear export or import being considered. For example, the Commission examines, among other matters, the safeguards and assurances provided by the recipient government to ensure that U.S.-supplied facilities and materials are not diverted to unauthorized uses, and the relationship of the Commission's grant or denial of an export license application to overall U.S. policies on the proliferation of nuclear explosives. In contrast, domestic licensing usually involves factual matters, relating to the domestic public health and safety and the environment, associated with discrete applications for the construction and operation of nuclear power plants. Moreover, the Commission's export and import licensing review process constitutes only one part of this country's broader activities in the nuclear import and export control area—activities which are part of United States foreig policy and nuclear nonproliferation efforts.

As the Commission has noted, the procedures applicable to domestic licensing are not in general well-suited to the Commission's conduct of its export and import licensing functions. See *Edlow International, supra.* In case of material covered by import licensing proceedings, if certain domestic health, safety, environmental and safeguards issues are raised, which are similar to issues commonly raised in domestic licensing proceedings, these issues may be properly addressed using domestic licensing procedures to the extent that they are separable from other issues associated with the license. Thus, persons or organizations establishing in an import licensing proceeding that they have an interest which may be affected, may be accorded additional procedural rights in the resolution of factual issues regarding protection of the U.S. public health, safety and environment.

The Commission has statutory discretion to formulate appropriate procedures for export and import licensing. Section 189a. of the Atomic Energy Act provides:

> In any proceeding under this Act, for the granting, suspending, revoking, or amending of any license or construction permit, or application to transfer control, and in any proceeding for the issuance or modification of rules and regulations dealing with the activities of licensees, * * * the Commission shall grant a hearing upon the request of any person whose interest may be affected by the proceeding, and shall admit such person as a party to such proceeding.

This language does not by its terms provide for an "on-the-record" hearing calling into play the formal adjudicatory requirements of sections 5, 7, and 8 of the Administrative Procedure Act, in each and every context in which a hearing is required. For example, such requirements do not apply where the Commission engages in rulemaking. *Siegel* v. *AEC*, 400 F. 2d 788 (D.C. Cir. 1968). What the language requires in each instance is to be settled by reference to congressional intent, established practice and sound policy.

It is clear from the legislative history of the provision, consistent agency practice, and indeed the general structure and conduct of government that formal adjudicatory procedures are required for controversies arising out of domestic licensing. Id. at 785. There is no similar indication concerning export or import licensing. During its 20-year administration of the Atomic Energy Act, the AEC did not once conduct a public or formal export or import licensing proceeding. The legislative history of the Energy Reorganization Act is equally devoid of any hint that Congress expected the Commission to follow formal adjudicatory procedures in export or import licensing.

Indeed, Congress' first explicit consideration of export procedures came in 1975, after enactment of the Energy Reorganization Act. Thus, neither congressional expectation nor established practice requires on-the-record adjudication of export or import licensing matters.

The absence of congressional concern over the informal nature of AEC export or import reviews is particularly significant in light of the unique relationship the *Siegel* court recognized between the Commission and the Congress, one designed to keep Congress fully and currently informed about this agency's views and actions. 400 F.2d at 783. See also *Union of Concerned Scientists* v. *AEC*, 499 F.2d 1069, 1079 (D.C. Cir. 1974). Congress was fully aware of the Commission's export and import licensing procedures, under the Commission's legal obligation to keep the Joint Committee on Atomic Energy "fully and currently informed with respect to all * * * (its) activites" including its export licensing practices. See section 202a. of the Atomic Energy Act.

The Commission's understanding of section 189 is also supported by more general considerations touching the nature of the issues, the practices of other federal agencies, and the appropriateness of adopting procedures other than adjudicatory hearings for nuclear export and import licensing.

As indicated before, the statutory finding which the Commission must make for an export or import, and the statutory context in which that finding is made, often require consideration of highly sensitive foreign policy and national security issues, including other countries' intentions and policies. An attempt to resolve these issues in the format of a formal adjudicatory hearing could seriously impair the conduct of United States foreign relations. It could appear to place on trial a foreign government's intentions on matters concerning its own vital national interests. These statutory findings are inherently policy decisions, committed to agency discretion, and singularly inappropriate for resolution in a formal adjudicatory context.

Finally, to the Commission's knowledge, no other agency holds adjudicatory hearings on such sensitive foreign policy issues.

Indeed, even if section 189 itself were to be construed to require formal adjudicatory procedures on all Commission licensing proceedings, Section 5 of the Administrative Procedure Act permits modification of those formal procedures where the conduct of foreign affairs functions is involved. Thus, regardless of the precise interpretation to be accorded the term

"hearing" in section 189, a similar result obtains under Section 5 of the Administrative Procedure Act—formal adjudicatory procedures are not required and are inappropriate for Commission export and import licensing.

"It is part of the genius of the administrative process that its flexibility permits adoption of approaches subject to expeditious adjustment in the light of experience." *American Airlines, Inc.* v. *Civil Aeronautics Board*, 359 F.2d 624, 633 (D.C. Cir. 1966). The Commission has endeavored in the new Part 110 to provide for procedures that will facilitate effective public participation in export and import licensing—procedures that are designed to be fair and consistent with the nature of the issues involved. Also, the Commission has endeavored to provide a structure for public participation that is sufficiently comprehensive so as to eliminate or substantially decrease the need for time consuming case-by-case development of procedures for export and import license applications.

ELEMENTS OF PUBLIC PARTICIPATION ON EXPORT AND IMPORT LICENSING MATTERS

In brief, the New Part 110 establishes the following procedures for public participation in export and import licensing matters. First, public notices is given for all major export and import license applications by periodically publishing a list of those applications received in the FEDERAL REGISTER—the Commission intends to do this twice a month; by placing copies of all export and import license applications in the Commission's Public Document Room; and by periodically mailing a list of export and import license applications received to persons or organizations requesting such information.

Second, the new part explicitly provides for public participation through written comments to the Commission. The Commission encourages and will consider carefully any written comments received on pending export and import license applications.

Third, provision is made for both hearings consisting of written comments and oral hearings where the Commission believes these would be in the public interest and of assistance in making its export and certain import licensing determinations. In keeping with the nature of the issues, oral hearings will be modelled on those used by legislative bodies. At such hearings, participants may be questioned by the presiding office (ordinarily the presiding officer will be the Commission itself). Also, participants in the hearing may submit proposed questions to the presiding officer, to be addressed by others at the discretion of the presiding officer.

Finally, the Commission will give careful consideration to all relevant written comments received, and the record of any hearings, in making its decision. However, in reaching its decision, the Commission may draw on material not included in the hearing record and may consult with its staff, Executive Branch agencies and other persons.

COMMENTS.—Twenty-four letters of comment were received from a total of 23 persons, companies or organizations: 14 from the domestic nuclear industry; 1 law firm representing nuclear industry clients; 2 foreign industry groups; 2 public interest groups; 3 State government agencies; the Department of Commerce; and the Department of State. Copies of these comments have been placed in the Commission's Public Document Room at 1717 H Street NW., Washington, D.C. The commentors had both general and detailed remarks on the procedures and most offered detailed drafting changes to the proposed regulations. The general comments and their resolutions are as follows:

(1) Industry commentors basically suported the promulgation of consolidated export regulations at this time. However, one public interest commentor (representing several organizations) suggested the adoption of the regulations was inappropriate prior to enactment of comprehensive nonproliferation legislation pending before the 95th Congress. One industry commentor supported this view.

Part 110 was drafted with the nonproliferation legislation in mind and, if legislation is enacted, appropriate provisions will be integrated into the new regulations (for example, more detailed export licensing criteria under § 110.42). The Commission has endeavored to draft Part 110 in a manner consistent with the latest versions of proposed legislation, as well as Commission statements of its intention to develop comprehensive export/import regulations at an early date. The new part is warranted on its own merits.

(2) Industry comments also reflected support for adopting legislative hearings as the typical format for public participation in export licensing. A few thought the public participation regulations were too broad and were an invitation to abuse by groups having only a remote interest in the subject matter. Several companies urged a rule requiring a stronger showing of interest before permitting interventions in NRC export licensing proceedings. On the other hand, comments by some environmental and public interest groups objected to adoption of a legislative hearing format and urged that the regulations be amended to provide for adjudicatory hearings (including full party status for intervenors, formal discovery by interrogatory, subpoenas for witnesses, cross-examination, on-the-record decisions, and the right of public parties to initiate enforcement proceedings).

As previously detailed, the procedures applicable to domestic licensing are not in general well-suited to the Commission's conduct of its export and import licensing functions. On the other hand, the Commission does not feel that the public participation regulations adopted are too broad and sees no sound reason why a stronger showing interest should be required for intervention.

(3) Several commentors suggested various ways for the Commission to expedite the licensing review process. It was suggested that the Commission (1) act on an export license within a specified time, ranging from 90 days to 6 months following receipt of an application, (2) limit the review process for routine applications such as reactor fuel reloads, and (3) provide a preliminary export license commitment, such as an advisory opinion, similar in principle to that granted by the Eximbank and the Commerce Department.

In response to these comments, it should be noted that the Commission has been actively working with the executive branch to expedite the licensing review process. Section 110.40 sets a guideline period for processing applications and stipulates that, if the guideline period is not met, the applicant will be informed in writing of the reason and given appropriate follow-up reports. Routine export license applications for low-enriched fuel shipments subsequent to an initial core-load, such as those for a facility in a country adhering to the Nuclear Nonproliferation Treaty (NPT), will not ordinarily be referred to the Commissioners for review. Applications involving non-parties to the NPT, intervention petitions or requests for a hearing, or changed circumstances are considered non-routine.

The more detailed comments and responses are noted below. The proposed rule has been revised, as appropriate, in response to general comments suggesting simplification and clarification. This has been accomplished throughout the proposed rule without altering the substance.

CONFORMING CHANGES

(1) In response to a comment concerning §§ 30.41, 40.51, and 70.42, new subparagraphs (b)(6) are added to these sections to clarify that persons authorized to possess nuclear material are authorized to transfer the material to a person abroad pursuant to an export license issued under Part 110 of this chapter.

(2) Material identification requirements, previously implemented by import license conditions, have been incorporated into § 70.54

SUBPART A—GENERAL PROVISIONS

(3) § 110.1, "Purpose and scope", is simplified, clarified and expanded to note that certain Department of Defense and Department of Energy activities are excluded from coverage by statute.

(4) In response to several comments, definitions are added for "packaging" (§ 110.2(v)), "reexport" (§ 110.2(bb)), "transfer" (§ 110.2(ii)), and "transport" (§ 110.2(jj)). Also, definitions for "atomic energy" and "Restricted Data" are deleted as unnecessary, and other definitions are clarified.

The new definitions are designed, in part, to distinguish between "export", "import", and "transfer". A specific export or import license simply authorizes the licensee to arrange for a utilization facility or special, source or byproduct material to be conveyed out of or into the U.S. An export or import license does not authorize the licensee to possess the material. A supplier or receiver, the only person with actual physical possession is responsible under existing regulations for providing appropriate packaging and transportation. However, a licensee with a specific license to export or import special nuclear material is responsible for compliance with the physical protection requirements of Part 73, unless a domestic licensee (supplier or receiver) has assumed that responsibility and the Commission has been so notified. See § 110.50(b).

(5) In response to a comment, the definition for "Agreement State" in former § 110.2(c), new § 110.2(b), is changed to clarify that it applies only to "States" in the United States and not to foreign "states."

(6) One commentor suggested that "person" in § 110.2(y) is defined too broadly, in effect granting "standing" to anyone to file written comments, request a hearing or petition for leave to intervene. The definition is unchanged, since there is no direct correlation between "person" and "standing" in Part 110.

(7) One commentor suggested that any reference to "participants", (§ 110.2(x)), be changed to "parties" to give every participant in a hearing equal status and the right to seek judicial review. The definition is unchanged. In effect, the status of participants in a hearing will be equal, depending (1) on the degree of involvement in the hearing (e.g. providing written comments only) or (2) on the framework the Commission sets for any hearing (e.g. providing for an oral hearing). In addition, because legislative-type rather than adjudicatory-type hearings are provided for, the term "participant" rather than "party" seems more appropriate.

This commentor also suggested that all participants are entitled to seek judicial review under section 189b of the Atomic Energy Act. However, only a person who has established an interest that may be affected and is aggrieved (see Hobbs Act, 42 U.S.C. § 2341 et seq.) may seek judicial review.

(8) In response to several comments, § 110.5 is revised to clarify the requirements for a license. Former paragraph (c) is covered elsewhere in Part 110 and is deleted; and former paragraph (d) is deleted and incorporated into a new § 110.6, to clarify procedures for obtaining reexport approval.

SUBPART B—EXEMPTIONS

(9) Many commentors requested various new exemptions or general licenses in connection with Subparts B and C. Many of the proposals are believed to have merit and have been under Commission and executive branch review. These proposals will be addressed in a separate rulemaking proposal to be published in the near future in the FEDERAL REGISTER. Any regulations emerging from this rulemaking would be incorporated into Part 110

(10) In response to several comments, § 110.10 is clarified and also revised to make clear that exemptions granted by the Commission are subject to executive branch review and, where appropriate, public rulemaking proceedings. One commentor suggested an exemption from licensing requirements for Government-to-Government imports of special nuclear material. The staff is analyzing this suggestion and any proposed changes to this part resulting from the staff analysis will be subject to a separate rulemaking proposal.

(11) Former § 110.11, exempting the Department of Defense from export or import licensing to a certain extent, is deleted and incorporated into § 110.1, as noted in the first response.

(12) In response to a comment, former § 110.12, new § 110.11, is clarified to make it parallel to § 70.11 of this chapter.

(13) In response to a comment, former § 110.13 is deleted. The exemption dealing with carriers is subsumed under domestic transfer and licensing requirements.

(14) A new § 110.12 is added to incorporate a recent rulemaking on intergovernmental cooperative activities (see former § 70.15 of this chapter).

SUBPART C—GENERAL LICENSES

(15) In keeping with the comments and revisions in § 110.10, a new § 110.20 is added to explain the authority and requirements for issuance of general licenses, including provision for executive branch review and rulemaking proceedings.

(16) One comment proposed shipment limitations for former §§ 110.20(f), 110.20(g), and 110.21(e) (new §§ 110.21(f), 110.21(g), and 110.22(e)). The suggested limitations have not been adopted in view of the inherently nonsensitive nature of the byproduct and source material under these general licenses. However, in response to another comment, former § 110.21(a), new § 110.22(a), is revised to limit the total amount of source material that a person can export annually to any country.

(17) In response to a comment on former § 110.23, this section is deleted, since information on generally licensed exports can be obtained from U.S. Customs and because there requirements have been difficult to administer.

(18) Several commentors requested that the general license for import, § 110.25, be modified to exclude imports of nuclear waste for disposal. This proposal would require a substantive change to existing regulations. The staff is analyzing this matter and any proposed change will be subject to a separate rulemaking proposal.

SUBPART D—APPLICATIONS FOR SPECIFIC LICENSES

(19) In response to a comment, references to application forms are added to § 110.30.

(20) In response to several comments on § 110.31, former paragraph (a)(3), new paragraph (a)(2), is clarified and former paragraph (a)(9) is deleted since this is covered in § 110.33.

The other comments on this section and their resolution are as follows:

A. One commentor also requested that the requirement for an end-use statement be deleted. This information is essential to licensing review, and the requirement is unchanged.

B. Another commentor requested that the principal initiating a license application (often a foreign government or corporation) should be identified. This is unnecessary if the license applicant, supplier and the receiver are clearly identified.

C. Finally, one commentor suggested that reprocessing and spent-fuel storage plans of the recipient should be included in export license applications. Information on U.S. controls over the reprocessing of U.S. supplied material and on related spent fuel storage considerations is available from governmental sources and considered, as appropriate, in export license reviews. It is unnecessary and inappropriate to request the license applicant to provide such information.

(21) In response to several comments, § 110.32 is clarified so that "items" in paragraph (b) refers to individual shipments and so that paragraph (c) explains why a list is required.

One commentor suggested that jurisdictional lines between the Commission and the Department of Commerce be clarified. Licensing practice

indicates that this clarification is unnecessary. Changes resulting from enactment of pending nonproliferation legislation would be incorporated into future amendments to Part 110.

(22) In response to several comments, § 110.33 is clarified and revised by requiring contract numbers only, if known, in paragraph (a); by deleting former paragraph (c), since shipping and packaging requirements are covered by the Commission's domestic licensing regulations; by adding a new paragraph (e), to identify the country of origin for source and special nuclear material in order to meet international standards; and by deleting former paragraph (f), since the information it requested is often proprietary or classified and is more appropriately obtained government-to-government.

(22) In response to several comments, § 110.34 is clarified and revised by requiring the name of the supplier instead of the owner in new paragraph (c), former paragraph (a)(4); by deleting former paragraph (a)(10), since these requirements are covered by the Commission's domestic licensing regulations; and by clarifying former paragraph (a)(11), new paragraph (i).

(23) In response to a comment, § 110.35 is revised to apply to applicants only.

SUBPART E—REVIEW OF SPECIFIC LICENSE APPLICATIONS

(24) In response to a comment, former § 110.36 is combined with new § 110.53 to further clarify that any person applying for an export or import license must have a U.S. address through which the Commission can take enforcement action or inspect his records, premises and activities related to the export or import shipment.

(25) In response to several comments, § 110.41 is revised by deleting former paragraph (a)(3) as redundant; and by deleting former paragraph (b), since the requirement to forward to the Executive Branch those import license applications involving material for subsequent export is unnecessary in view of the fact that subsequent export will be subject to Executive Branch and Commission review.

The other comments and their resolution are as follows:

A. One commentor suggested that, in situations involving the import of material for subsequent export, the Commission should issue a combined import/export license. This suggestion is not adopted, since applicants may apply simultaneously for import and export licenses, if they wish such matters to be considered concurrently.

B. One commentor suggested that the Commission require the Executive Branch to prepare a nonproliferation assessment, including a timely warning analysis, on each export license application. This is considered unnecessary, since proliferation aspects of each export are already considered in the Executive Branch and Commission review of proposed exports as part of the normal licensing review.

C. Finally, one commentor suggested that the Commission's regulations should set standards governing the quality of Executive Branch analysis. This is unnecessary. The Commission has established procedures for obtaining information from the Executive Branch, its staff and others, and does not make its export licensing determinations until it has received adequate information.

(26) § 110.42 adopts as final an interim rule proposed in 42 FR 43821 (August 31, 1977). See § 70.31(e) of this chapter. In response to a comment received on the interim rule, the final rule requires that the quantity of exempted diluted material may not exceed 100 grams. It should be noted that § 110.42, and the Atomic Energy Act itself, do not require that source material exports be pursuant to an agreement for cooperation. Nevertheless, the Commission will normally require that source material exports for nuclear end-uses be pursuant to an agreement for cooperation in order to satisfy the "noninimicality" determination requirement.

SUBPART F—LICENSE TERMS AND RELATED PROVISIONS

(27) There were numerous comments on § 110.50. This section is revised by:

A. Simplifying paragraphs (a)(1) and (a)(2); deleting former paragraph (a)(3), since it is redundant; clarifying paragraph (a)(4) and renumbering it (b)(9); and deleting former paragraphs (a)(5) and (a)(6), since shipping requirements are covered by the Commission's domestic regulations;

B. Clarifying former paragraph (b)(1) and renumbering it (b)(2); adding a new paragraph (b)(1) to provide for license expiration dates; deleting former paragraph (b)(2), because the Commission has other means to verify the information contained in Shipper's Export Declarations; and adding a new paragraph (b)(5) to indicate the licensee's responsibility with respect to the packaging requirements of Part 71;

C. Renumbering paragraphs (c)(1) and (c)(2) as (b)(8) and (b)(7), respectively;

D. Revising former paragraph (d)(1) to cover packaging and fuel element hardware and renumbering it (a)(5); deleting paragraphs (d)(2) and (d)(3), since reporting and shipping requirements are covered by the Commission's domestic regulations; incorporating former paragraph (d)(4) into new paragraph (a)(3); renumbering paragraph (d)(5) as (b)(6) and revising it to make clear that the export licensee is responsible for compliance with the physical protection requirements in Part 73, unless a domestic licensee of the Commission has assumed that responsibility and the Commission has been so notified; and deleting paragraph (d)(6), since this provision is covered by the Commission's domestic regulations.

E. Deleting paragraphs (e)(1) and (e)(3) through (e)(7), since these requirements are covered by the Commission's domestic regulations; and deleting paragraph (e)(2) and providing for appropriate coverage in a conforming change to Part 73.

(28) A commentor suggested that the Commission revise § 110.51 to require the Commission to provide the licensee notice that his license is about to expire. This suggestion is not adopted because it would impose an unwarranted administrative burden on the Commission. A licensee is fairly chargeable with a duty to review his legal authority to engage in a licensed activity and to take whatever action is required to maintain that authority.

(29) In response to a comment, § 110.54 is deleted, since reporting requirements are adequately covered by the Commission's domestic regulations. This deletion obviates the need to respond to other comments on § 110.54.

(30) In response to a comment, former § 110.55, now incorporated into § 110.53, is revised to clarify the Commission's statutory authority and the coverage of the Commission's inspections.

SUBPART G—VIOLATIONS AND ENFORCEMENT

(31) In response to several comments, §§ 110.60, 110.61, 110.62, 110.63, 110.64 and 110.65 are clarified and simplified. One commentor requested that paragraphs (e) and (f) of § 110.64 be deleted on grounds that section 234 of the Atomic Energy Act does not authorize hearings in connection with civil penalties. Such hearings are authorized by the Atomic Energy Act (see 10 CFR § 2.205) and the request is therefore not adopted. However, these paragraphs are clarified to indicate that any alleged violator does not need to seek an administrative hearing.

SUBPART H—PUBLIC NOTIFICATION AND AVAILABILITY OF DOCUMENTS AND RECORDS

(32) Section 110.70 is clarified and divided into 4 sections in response to several comments suggesting that it was unclear.

The other comments and their resolution are as follows:

A. The Commission is adopting a suggestion that it publish in the FEDERAL REGISTER notice of receipt of applications other than those for utilization facilities. The Commission will

also notice in the FEDERAL REGISTER receipt of applications for 1 effective kilogram or more of special nuclear material and 10,000 kilograms or more of source material. Thus, major applications will be noticed in the FEDERAL REGISTER. The Commission believes, however, that publication in the FEDERAL REGISTER has only marginal value as a means of providing actual notice of applications in minor cases and will continue to notice these by placement in the Commission's Public Document Room.

B. In response to a comment, former paragraph (a)(3) is deleted. It should be noted that, in § 110.80 of Part 110, the Commission encourages written comments from the public. In order to afford the Commission an opportunity to focus on public views and concerns, it requests that, if possible, the comments should be submitted within 30 days after notice of receipt of an application.

C. Finally, in response to a comment, the Commission believes it unnecessary to provide notice to the applicant that his application was received, since this can be verified by telephone.

(33) In response to several comments, former § 110.71, new § 110.73, is clarified and a new paragraph (b) is added to specify that the provisions of §§ 2.790 (b), (c) and (d) of this chapter also may be applied to proprietary information.

SUBPART I—PUBLIC PARTICIPATION PROCEDURES CONCERNING LICENSE APPLICATIONS

(34) In response to several comments, § 110.80 is clarified and provision made for the Commission to provide an applicant with a copy of any comments received and, as appropriate, a reasonable opportunity to respond. It should be noted that the written comment procedure in this section is separate from the procedure for a hearing consisting of written comments.

(35) In response to several comments, § 110.81 is clarified, revised and incorporated into other sections as appropriate.

In response to a comment, the Commission does not consider it necessary to bolster the provisions on untimely intervention petitions or hearing requests and on the documentation and information required from a petitioner or requestor.

In keeping with Commission acceptance of the comment that it should act expeditiously on export license applications, former § 110.81(b), new § 110.81(c), is revised to allow 15 days after public notice of receipt of the application in the Public Document Room for the filing of hearing requests or intervention petitions on minor export or import license applications. As stated before, for major applications published in the FEDERAL REGISTER, hearing requests and intervention petitions will be considered timely only if filed not later than 30 days after notice of receipt in the FEDERAL REGISTER.

(36) In response to comments, § 110.82 is revised by providing equal time limits for filing answers, adding a new provision covering replies, and making these consistent with § 110.81.

(37) In response to several comments, § 110.83 is revised by:

A. Changing paragraph (b)(1) to make clear that a key factor the Commission will consider in acting on an intervention petition or hearing request is the impact of a hearing on the common defense and security of the United States (the Commission has not adopted other suggested criteria, since it believes that the present criteria as revised are adequate);

B. Adding a new paragraph (f) specifying that, where a hearing request or intervention petition does not establish an interest which may be affected, the Commission will not conduct a new hearing on an issue adequately explored in another hearing, unless it determines that changed circumstances or new information warrant a new hearing. If the Commission determines that a hearing request or intervention petition does establish an interest which may be affected, it will grant a hearing and structure it to take account of information on the same issue received in any previous hearing; and

C. Specifying in new paragraph (g) that upon the affirmative vote of two Commissioners a hearing will be ordered.

(38) In response to a comment on §§ 110.84 and 110.85, the distinction between the procedures for oral hearings and hearings consisting of written comments is clarified.

(39) Several commentors stated that the order of the sections in Subpart I, "Public Participation Procedures Concerning License Applications" and Subpart J, "Hearings and Decisions" was unclear. For the most part, Subpart I concerns public participation procedures prior to hearings and Subpart J concerns procedures during hearings. To make the distinction clearer, the two subparts are retitled; former § 110.86 is incorporated into §§ 110.84 and 110.85; former § 110.87 is retitled and renumbered § 110.86; former §§ 110.90, 110.92, 110.93 and 110.95 are deleted from Subpart I, placed in Subpart J and renumbered §§ 110.101, 110.102, 110.103 and 110.105(a)(7) respectively; and §§ 110.94, 110.96, 110.97 and 110.110(c) are renumbered §§ 110.89, 110.88, 110.87 and 110.90, respectively.

SUBPART J—HEARINGS

(40) In response to comments, former § 110.93(d), new § 110.103(d), is revised by deleting the requirement for filing 20 conformed copies; and former § 110.94 (b) and (c), new § 110.89 (b) and (c), is revised by decreasing the time periods to correspond with standard requirements in domestic licensing proceedings.

(41) The comment that the Commission permit interrogatories is not accepted, since, as noted earlier, hearings have a legislative rather than an adjudicatory format. Instead, former § 110.104, new § 110.106, is revised to make clear that participants may address written or oral questions to the Commission or other presiding officer who may refer them to other participants for response.

Although several commentors suggested deletion of former § 110.104(c), new § 110.106(c), concerning import licensing hearings, the Commission is retaining it, as clarified, since it provides an option for according additional procedural rights in certain cases.

(42) In response to several comments, former § 110.105, new § 110.107, is revised by deleting the requirement in paragraph (a) for advance filing of rebuttal testimony; by relettering former paragraph (b) as new paragraph (f); and by inserting new paragraphs (c) and (d) permitting members of groups to testify in their individual capacities and participants to present their own witnesses.

The suggestion that the Commission grant subpoenas at the request of a participant is not adopted. Although the Commission is authorized to issue subpoenas on its own motion (see section 161c. of the Atomic Energy Act), the grant of subpoenas on request would be inconsistent with the legislative format established by these regulations for hearings.

(43) In response to several comments, former § 110.107, new § 110.109, is revised by changing paragraph (a) to require that, when the Commission is not the presiding officer, all motions must be filed initially with the presiding officer and all written motions served on the participants; and by changing the time limit in paragraph (b) to conform with standard practices in domestic licensing.

(44) In response to several comments, former § 110.110, new § 110.113, is revised by changing paragraph (a) to provide for a written Commission opinion after a hearing; by transferring former paragraph (c) to Subpart I and making it new § 110.90; and by making clear in new paragraph (d) that the Commission may act at any time on a license application when the requirements in that paragraph are met.

SUBPART K—SPECIAL PROCEDURES FOR CLASSIFIED INFORMATION IN HEARINGS

(45) One commentor suggested that Subpart K limited the flow of classi-

fied information between the Executive Branch and the Commission. The Commission believes that neither the filing of a hearing request or intervention petition nor the granting of these should imply any limit on the flow of classified information, and this subpart has been revised accordingly. Section 110.120 is also clarified to indicate that, whether or not a hearing is conducted, classified information should be declassified to the maximum extent feasible, and, to the extent consistent with classification requirements, public statements by the Executive Branch will reflect consideration of any classified information. This is reaffirmed in § 110.125, incorporating former § 110.121.

(46) In response to a comment, former § 110.122, new § 110.121, is revised by clarifying procedures for obtaining access to classified information. The distinction between access to classified information introduced and not introduced into a hearing is retained.

(47) In response to a comment, former § 110.124, new § 110.123, is revised by clarifying that, when a participant does not intend to introduce classified information into a hearing, a notice of intent should not be filed.

(48) In response to a comment, former § 110.125, new § 110.123(a), is revised by clarifying that a hearing participant must file a notice of intent to introduce classified information at the earliest possible time after the hearing notice.

(49) One commentor questioned the need for paragraphs (b) and (c) of former § 110.126, new § 110.125 (b)(2) and (b)(3), and recommended deletion. These paragraphs are clarified but remain essentially unchanged. They simply note that all participants should attempt to ensure that any classified information introduced in a hearing is, to the extent consistent with classification requirements, declassified and reflected in the public hearing record.

(50) In response to a comment, § 110.127 is deleted as unnecessary. The Commission will, in any event, give appropriate weight to any classified information, whether or not it is introduced into a hearing.

SUBPART L—RULEMAKING CONCERNING THE REGULATIONS IN THIS PART

(51) Subpart L has been clarified to make it consistent with the changes to other subparts.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and sections 552 and 553 of Title 5 of the United States Code, the following new Part 110, together with conforming changes, to Title 10, Chapter I, Code of Federal Regulations, is published as a document subject to codification.

The conforming changes are as follows:

PART 2—RULES OF PRACTICE FOR DOMESTIC LICENSING PROCEEDINGS

10 CFR Part 2 is amended as follows:

1. The title of 10 CFR Part 2 is changed to read, "Rules of Practice for Domestic Licensing Proceedings";

§ 2.1 [Amended]

2. In § 2.1 of 10 CFR Part 2, the phrase ", other than export and import licensing proceedings described in Part 110," is inserted after the words "all proceedings";

PART 30—RULES OF GENERAL APPLICABILITY TO DOMESTIC LICENSING OF BYPRODUCT MATERIAL

10 CFR Part 30 is amended as follows:

3. The title of 10 CFR Part 30 is changed to read, "Rules of General Applicability to Domestic Licensing of Byproduct Material";

§ 30.1 [Amended]

4. In § 30.1 of 10 CFR Part 30, the word "domestic" is inserted before the word "licensing" in both places where the latter word appears;

§ 30.3 [Amended]

5. In § 30.3, the word "or" is inserted before the word "use" and the phrase ", import or export" is deleted;

§ 30.4 [Amended]

6. In the introductory sentence of § 30.4 and in § 30.4(b), the term "Parts 31-36" is changed to "Parts 31-35";

7. In § 30.4(i), the phrase "part and Parts 31-35 of this" is inserted before the word "chapter";

8. In § 30.4(q), the term "Parts 31-36" is changed to "Parts 31-35";

§ 30.5 [Amended]

9. In § 30.5, the term "Parts 31-36" is changed to "Parts 31-35";

§30.6 [Amended]

10. In § 30.6, the term "Parts 31-36" is changed to "Parts 31-35";

§ 30.11 [Amended]

11. In § 30.11(a), the term "Parts 31-36" is changed to "Parts 31-35" and the footnote is deleted from the title;

§ 30.12 [Amended]

12. In § 30.12, in the first and last sentences, the word "or" is inserted between the words "possesses," and "uses" and the phrase ", imports, or exports" is deleted in these sentences;

§ 30.13 [Amended]

13. In § 30.13, the term "Parts 31-36" is changed to "Parts 31-35";

§ 30.14 [Amended]

14. In § 30.14(a), the term "Parts 31-36" is changed to "Parts 31-35";

15. In § 30.14(c), the word "and" is inserted before the number "34" and the term "and 36" is deleted;

30.15 [Amended]

16. In § 30.15(a), the word "import" is deleted and the words "initially transfer" are inserted in its place; the word "exports," is deleted; and the term "30-36" is changed to "30-35";

17. In § 30.15(b), the word "import" is deleted and the words "initially transfer" are inserted in its place;

§30.16 [Amended]

18. In § 30.16, the term "30-36" is changed to "30-35"; the word "exports," is deleted; the word "imported" is deleted and replaced with the words "initially transferred"; and the word "import" is deleted and replaced with the phrase "initial transfer for sale or distribution";

§ 30.18 [Amended]

19. In § 30.18(c), the phrase "for purposes of commercial distribution" is inserted after the word "authorize" and deleted after the phrase "import of byproduct material" and the word "import" is deleted and replaced with the word "transfer";

20. In § 30.18(d), the words "import or" are deleted;

§ 30.19 [Amended]

21. In § 30.19(a), the word "or" in the phrase "process, or produce" is deleted and the phrase ", or initially transfer for sale or distribution" is inserted after the former phrase; the phrase ", or who import such products" and the words "exports" and "imported," are deleted; the term "30-36" is changed to "30-35"; the word "initially" is inserted before the phrase "transferred in accordance with"; and the word "initial" is inserted before the word "transfer";

22. In § 30.19(b), the phrase "or to import" is deleted;

§ 30.20 [Amended]

23. In § 30.20(a), the word "or" in the phrase "process, or produce" is deleted and the phrase ", or initially transfer for sale or distribution" is inserted after the former phrase; the phrase "or who import such products" and the words "exports," and "imported," are deleted; the term "30-36" is changed to "30-35"; the word "initially" is inserted before the phrase "transferred in accordance with"; and the word "initial" is inserted before the word "transfer";

24. In § 30.20(b), the phrase "to import or" is deleted and the word "initially" is inserted before the words "transfer" and "transferred";

§ 30.31 [Amended]

25. In § 30.31, the term "Parts 32-36" is changed to "Parts 32-35";

§ 30.32 [Amended]

26. In § 30.32(d), the term "Parts 32-36" is changed to "Parts 32-35";

§ 30.33 [Amended]

27. In § 30.33(a)(4), the term "Parts 32-36" is changed to "Parts 32-35";

§ 30.34 [Amended]

28. In § 30.34, the term "Parts 31-36" is changed everywhere it occurs to "Parts 31-35";

29. In § 30.34(c), the word "and" is inserted after the word "own," and the words ", and import" are deleted.

§ 30.39 [Amended]

30. In § 30.39, the term "Parts 32-36" is changed to "Parts 32-35";

§ 30.41 [Amended]

31. In § 30.41(b), paragraph (b)(6) is renumbered (b)(7) and a new paragraph (b)(6) is added to read: "(6) To a person abroad pursuant to an export license issued under Part 110 of this chapter";

§ 30.51 [Amended]

32. In § 30.51, the term "Parts 31-36" is changed everywhere it occurs to "Parts 31-35";

33. In § 30.51 (a) and (c), the word "export," is deleted;

34. In § 30.51(c), paragraph (c)(2) is deleted and reserved;

§ 30.53 [Amended]

35. In § 30.53, the term "parts 31-36" is changed to "Parts 31-35";

§ 30.54 [Amended]

36. In § 30.54(a), the words "or export" are deleted;

37. In § 30.54(b), the word "and" is inserted before paragraph (2), a period is inserted to replace the semicolon after the word "use" at the end of paragraph (2), and paragraphs (3) and (4) are deleted and reserved;

§ 30.55 [Amended]

38. In § 30.55(c), the phrase ", import, or export" is deleted;

39. In § 30.555(e), a period is inserted to replace the semicolon after the word "use" in paragraph (1) and paragraphs (2) and (3) are deleted and reserved;

§ 30.61 [Amended]

40. In § 30.61(a), the term "Parts 31-36" is changed to "Parts 31-35";

PART 31—GENERAL DOMESTIC LICENSES FOR BYPRODUCT MATERIAL

10 CFR Part 31 is amended as follows:

40a. The title of 10 CFR Part 31 is changed to "General Domestic Licenses for Byproduct Material";

§ 31.2 [Amended]

41. In § 31.2 of 10 CFR Part 31, the term ", and 36" is deleted and word "and" is inserted before the number "21";

§ 31.5 [Amended]

42. In § 31.5(b), the word "imported" is deleted and replaced with the words "initially transferred";

43. In § 31.5(c)(7) the phrase "without a specific license pursuant to Parts 30 and 36 of this chapter authorizing such export" is deleted and replaced with the phrase "except in accordance with Part 110 of this chapter";

§ 31.7 [Amended]

44. In § 31.7(a), the word "imported" is deleted and replaced with the words "initially transferred";

45. In § 31.7(d), the phrase "except in accordance with the provisions of Part 36 of this chapter" is deleted;

§ 31.8 [Amended]

46. In § 31.8(b), the phrase "or initially transferred" is inserted after the word "manufactured" and the phrase "to the manufacturer or importer of the sources" is deleted;

47. In § 31.8(c)(2), the word "importer" is deleted and replaced with the words "initial transferor";

§ 31.10 [Amended]

48. In § 31.10(a), the word "imported" is deleted and replaced with the words "initially transferred";

PART 32—SPECIFIC DOMESTIC LICENSES TO MANUFACTURE OR TRANSFER CERTAIN ITEMS CONTAINING BYPRODUCT MATERIAL

10 CFR Part 32 is amended as follows:

49. The title of 10 CFR Part 32 is changed to read, "Specific Domestic Licenses to Manufacture or Transfer Certain Items Containing Byproduct Material";

50. In the index to Part 32, in § 32.14, the word "import" is deleted and replaced with the words "initially transfer";

51. In the index to Part 32, in § 32.16, the words "import or" are deleted;

52. In the index to Part 32, in § 32.17, the word "import" is deleted and replaced with the words "initially transfer";

53. In the index to Part 32, in § 32.22, the word "import" is deleted and the word "initially" is inserted before the word "transfer";

54. In the index to Part 32, in § 32.25, the words "import or" are deleted;

55. In the index to Part 32, in § 32.26, the word "import" is deleted and the word "initially" is inserted before the word "transfer";

56. In the index to Part 32, in § 32.29, the words "import or" are deleted;

57. In the index to Part 32, in § 32.51, the title is changed to "Byproduct material contained in devices for use under § 31.5; requirements for license to manufacture or initially transfer.";

57a. In the index to Part 32, a new § 32.51a is inserted entitled "Same: conditions of licenses.";

58. In the index to Part 32, in § 32.53, the word "import" is deleted and replaced with the words "initially transfer";

59. In the index to Part 32, in § 32.57, the word "import" is deleted and replaced with the words "initially transfer";

60. In the index to Part 32, in § 32.61, the word "import" is deleted and replaced with the words "initially transfer";

§ 32.1 [Amended]

61. In § 32.1(a) of 10 CFR Part 32, the words ", distribute or import" are deleted and replaced with the words "or initially transfer" and the words "sale or" are inserted before the word "distribution";

§ 32.14 [Amended]

62. In the title of § 32.14, the word "import" is deleted and replaced with the words "initially transfer";

63. In § 32.14, in the introductory clause, the word "import" is deleted and replaced with the phrase "initially transfer for sale or distribution";

63a. In § 32.14(b)(6), the word "importer" is deleted and replaced with the words "initial transferor";

§ 32.15 [Amended]

64. In § 32.15(d), the word "importer" is deleted and replaced with the words "initial transferor";

§ 32.16 [Amended]

65. in the title of § 32.16, the words "import or" are deleted;

66. In § 32.16, the phrase "imported for sale or distribution or" is deleted and the words "imported or transferred" and "imports or" are deleted everywhere they occur;

§ 32.17 [Amended]

67. In the title of § 32.17, the word "import" is deleted and replaced with the words "initially transfer";

68. In § 32.17, in the introductory clause, the word "import" is deleted and replaced with the words "initially transfer";

69. In § 32.17(c)(1), the word "imported" is deleted and replaced with the words "initially transferred";

§ 32.18 [Amended]

70. In § 32.18, the word "import," in the introductory sentence, is deleted;

§ 32.22 [Amended]

71. In § 32.22, in the title, the word "import," is deleted and the word "initially" is inserted before the word "transfer";

72. In § 32.22(a), the phrase "or to import" is deleted and the word "initially" is inserted before the word "transfer";

73. In § 32.22(a)(2)(x), the word "importer" is deleted and replaced with the words "initial transferor";

§ 32.25 [Amended]

74. In § 32.25, the words "imports or" in the title are deleted;

75. In § 32.25(b), the word "importer" is deleted and replaced with the words "initial transferor";

76. In § 32.25(c), the phrase "imported for sale or distribution or" is deleted; the words "imported or transferred" in the numbered subparagraphs are deleted; and the words "imports or" are deleted;

§ 32.26 [Amended]

77. In § 32.26, the word "import," in the title, is deleted and the word "initially" is inserted before the word "transfer";

78. In § 32.26, in the introductory sentence, the phrase "or to import" is deleted and the word "initially" is inserted before the word "transfer";

79. In § 32.26(b)(10), the word "importer" is deleted and replaced with the words "initial transferor";

§ 32.29 [Amended]

80. In § 32.29, in the title, the words "imports or" are deleted;

81. In § 32.29(b), the word "importer" is deleted and replaced with the words "initial transferor";

82. In § 32.29(c) the phrase "imported for sale or distribution or" is deleted; the words "imported or transferred" in the numbered subparagraphs are deleted; and the words "imports or" are deleted;

§ 32.40 [Amended]

83. In § 32.40, the word "import" is deleted in the introductory sentence and replaced with the words "initially transfer";

§ 32.51 [Amended]

84. In § 32.51, the words ", import or distribute", in the title, are deleted and replaced with the words "or initially transfer";

85. In § 32.51(a), the words ", import, or distribute" are deleted and replaced with the words "or initially transfer";

86. In § 32.51(a)(3)(iii), in the main text and in footnote 1, the words ", importer, or distributor" are deleted and replaced with the words "or initial transferor";

§ 32.52 [Amended]

87. In § 32.52, in the introductory sentence, the word "distribute" is deleted and replaced with the words "initially transfer";

§ 32.53 [Amended]

88. In § 32.53, in the title and in the introductory sentence, the word "import" is deleted and replaced with the words "initially transfer";

§ 32.54 [Amended]

89. In § 32.54 (a) and (b), the word "import" is deleted and replaced with the words "initially transfer" and the word "importer" is deleted everywhere it occurs, including the footnote, and replaced with the words "initial transferor";

§ 32.57 [Amended]

90. In § 32.57, the word "import" is deleted in the title and the introductory sentence and replaced with the words "initially transfer";

§ 32.58 [Amended]

91. In § 32.58, the word "importer" is deleted and replaced with the words "initial transferor";

§ 32.61 [Amended]

92. In § 32.61, the word "import" is deleted in the title and the introductory sentence and replaced with the words "initially transfer";

§ 32.62 [Amended]

93. In § 32.62, the introductory sentence is deleted;

PART 33—SPECIFIC DOMESTIC LICENSES OF BROAD SCOPE FOR BYPRODUCT MATERIAL

10 CFR Part 33 is amended as follows:

94. The title of 10 CFR Part 33 is changed to "Specific Domestic Licenses of Broad Scope for Byproduct Material";

§ 33.11 [Amended]

95. In §§ 33.11(a), (b) and (c) of 10 CFR Part 33, the word "and" is inserted between the words "use" and "transfer" and the words ", and import" are deleted;

PART 36—[RESERVED]

96. 10 CFR Part 36 is deleted in its entirety and reserved;

PART 40—DOMESTIC LICENSING OF SOURCE MATERIAL

10 CFR Part 40 is amended as follows:

97. The title of 10 CFR Part 40 is changed to "Domestic Licensing of Source Material";

98. In the index to Part 40, § 40.23 is deleted and reserved;

99. In the index to Part 40, § 40.24 is deleted and reserved;

100. In the index to Part 40, § 40.33 is deleted and reserved;

§ 40.1 [Amended]

101. In § 40.1(a) of CFR Part 40, the word "or" is inserted before the word "deliver" and the phrase ", or import into or export from the United States" is deleted;

§ 40.3 [Amended]

102. In § 40.3, the word "or" is inserted before the word "deliver" and the phrase ", or import into or export from the United States" is deleted;

§ 40.11 [Amended]

103. In § 40.11, the word "or" is inserted between the words "transfers" and "delivers" in both places where these words appear and the phrase ", or imports into or exports from the United States" is deleted in both places where it appears;

§ 40.13 [Amended]

104. In § 40.13(a), the word "or" is inserted before the word "delivers" and the phrase ", or imports into or exports from the United States" is deleted;

105. In § 40.13(b), the word "or" is inserted before the word "transfers"; the phrase ", or imports into the United States" is deleted; and the last sentence is deleted;

106. In § 40.13(c), in the introductory sentence, the word "or" is inserted before the word "transfers" and the phrase ", or imports into the United States" is deleted; and in subparagraph (7)(ii) the word "or" is inserted before the word "transfer" and the phrase ", or import into the United States" is deleted;

107. In § 40.13(d), the word "or" is inserted before the word "transfers" and the phrase ", or imports into the United States" is deleted;

§ 40.21 [Amended]

108. In § 40.21, the words "import, export" are deleted;

§ 40.22 [Amended]

109. In § 40.22(a), the last clause beginning with the words "; and provided further" is deleted and a period is inserted to replace the semicolon after the word "year";

§ 40.23 [Deleted]

110. § 40.23 is deleted in its entirety and reserved;

§ 40.24 [Deleted]

111. § 40.24 is deleted in its entirety and reserved;

§ 40.25 [Amended]

112. In § 40.25(b), the words, "imported either" are deleted and replaced with the words "initially trans-

ferred"; and the phrases "to the manufacturer or importer of the products or devices" and "to the manufacturer" appearing before the phrase "by an Agreement State" are deleted;

113. In § 40.25(d), paragraph (5) is deleted and reserved;

§ 40.31 [Amended]

114. In § 40.31(a), the phrase ", or on Form NRC-7, 'Application for License to Export Byproduct or Source Material,' as appropriate" is deleted;

§ 40.32 [Amended]

115. In § 40.32, in the introductory sentence, the phrase "for purposes other than export" is deleted;

§ 40.33 [Deleted]

116. § 40.33 is deleted in its entirety and reserved;

§ 40.34 [Amended]

117. In § 40.34, paragraph sign (a) and the introductory sentence are deleted; and subparagraph (1) is changed to paragraph (a) and the following paragraphs and subparagraphs are relettered and renumbered accordingly;

118. In § 40.34(a)(1), the phrase "or to import" is deleted and the word "initially" is inserted before the word "transfer";

§ 40.35 [Amended]

119. In § 40.35, paragraph sign (a) is deleted and the following paragraphs and subparagraphs are relettered and renumbered accordingly; in paragraph (a), the letter (a) in "§ 40.34(a)" is deleted; and in § 40.35(a)(2)(i), the word "importer" is deleted and replaced with the words "initial transferor", and the word "imported" is deleted and replaced with the words "initially transferred";

§ 40.41 [Amended]

120. In § 40.41(c), the word "and" is inserted after the word "possess" and the words "and import" are deleted;

121. In § 40.41(e), the word "and" is inserted after the word "use" and the phrase ", import and export" is deleted;

§ 40.45 [Amended]

122. In § 40.45, a "§" sign before the number "40.32" is deleted and the term "and 40.33" is deleted;

§ 40.51 [Amended]

123. In § 40.51(b), paragraph (b)(6) is renumbered (b)(7) and a new paragraph (b)(6) is added to read: "(6) To any person abroad pursuant to an export license issued under Part 110 of this chapter;";

§ 40.61 [Amended]

124. In § 40.61(a), the word "export," is deleted;

125. In § 40.61(c), the word "export," is deleted from paragraph (1) and paragraph (2) is deleted and reserved;

§ 40.64 [Amended]

126. In § 40.64(a), the phrase "and except for exports of unimportant quantities of source material specified in § 40.13 (b), (c), and (d)," is deleted;

§ 40.90 [Deleted]

127. § 40.90 is deleted in its entirety and reserved and the word "Schedule" above it is deleted;

PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

10 CFR Part 50 is amended as follows:

128. The title of 10 CFR Part 50 is changed to "Domestic Licensing of Production and Utilization Facilities";

129. In the index to Part 50, § 50.65 is deleted and reserved and the words "Export Licenses" above it are deleted;

§ 50.2 [Amended]

130. In § 50.2 of 10 CFR Part 50, paragraph (d) is deleted and reserved.

§ 50.10 [Amended]

131. In § 50.10(a), the word "or" is inserted before the word "use" and the phrase ", import, or export" is deleted;

§ 50.21 [Amended]

132. In § 50.21, in the introductory sentence the word "or" is inserted before the word "use" and the phrase ", import, or export under the terms of an agreement for cooperation" is deleted;

§ 50.22 [Amended]

133. In § 50.22, paragraph sign (a) is deleted; the word "or" is inserted after the word "possess"; and the phrase ", import, or export under the terms of an agreement for cooperation," is deleted;

§ 50.38 [Amended]

134. In § 50.38, the phrase "except a license authorizing export only pursuant to an agreement for cooperation" is deleted;

§ 50.53 [Amended]

135. In § 50.53, the phrase "except insofar as the export of production of utilization facilities is authorized" is deleted;

§ 50.65 [Deleted]

136. § 50.65 is deleted in its entirety and reserved and the words "Export Licenses" above it are deleted;

PART 51—LICENSING AND REGULATORY POLICY AND PROCEDURES FOR ENVIRONMENTAL PROTECTION

10 CFR Part 51 is amended as follows:

§ 51.5 [Amended]

137. In § 51.5(d)(3) of 10 CFR Part 51, the word ", or" before the number "100" is deleted and the words ", or 110" after the number "100" are added.

PART 70—DOMESTIC LICENSING OF SPECIAL NUCLEAR MATERIAL

10 CFR Part 70 is amended as follows:

138. The title of 10 CFR Part 70 is changed to "Domestic Licensing of Special Nuclear Material";

139. In the index to Part 70, in § 70.39, the word "import" is deleted and replaced with the words "initial transfer";

§ 70.1 [Amended]

140. In § 70.1(a) of 10 CFR Part 70, the words "and initially" are inserted after the word "use" and the phrase ", import, and export" is deleted;

§ 70.3 [Amended]

141. In § 70.3, the word "or" is inserted before the word "transfer" and the phrase ", import or export" is deleted;

§ 70.11 [Amended]

142. In § 70.11, the word "or" is inserted before the word "transfers" in the introductory sentence and in subsection (c), and the phrase ", imports or exports" is deleted in the introductory sentence and in subsection (c);

§ 70.15 [Reserved]

143. § 70.15 is deleted in its entirety and reserved;

§ 70.19 [Amended]

144. In § 70.19(b), the words "or initially transferred" are inserted after the word "manufactured," and the phrases "by the Commission or the Atomic Energy Commission to the manufacturer or importer of the sources" and "to the manufacturer" are deleted;

145. In § 70.19(c)(2), the word "Importer" is deleted and replaced with the words "initial transferor";

§ 70.22 [Amended]

146. In § 70.22, in subsection (a), the phrase ", other than an application for a license authorizing export only" is deleted, and subsection (c) is deleted and reserved;

§ 70.23 [Amended]

147. In § 70.23(a), the phrase ", other than a license for export," is deleted;

§ 70.31 [Amended]

148. In § 70.31, subsection (e) is deleted and reserved;

149. In § 70.32(b), in the introductory sentence the word "and" is inserted before the word "transfer" and the phrase ", import and export" is deleted;

§ 70.39 [Amended]

150. In § 70.39, in the title and in subsection (a), the word "import" is deleted and replaced with the words "initial transfer" and "initially transfer" respectively;

151. In § 70.39(b), the word "Importer" is deleted and replaced with the words "initial transferor";

§ 70.41 [Amended]

152. § 70.41(c) is deleted in its entirety and reserved;

§ 70.42 [Amended]

153. In § 70.42(b), paragraph (b)(6) is renumbered (b)(7) and a new paragraph (b)(6) is added to read: "(6) To any person abroad pursuant to an export license issued under Part 110 of this chapter;";

§ 70.51 [Amended]

154. In § 70.51(b), in paragraph (1), the words "import, export," are deleted; in paragraph (3) the word "or" is inserted before the word "physical" and the words ", or import" and "or export" are deleted; and paragraph (4) is deleted and reserved;

§ 70.54 [Amended]

155. In § 70.54, the following sentence is inserted after the first sentence: "Each licensee who receives such material from a foreign source shall complete both the suppliers and receivers portion of Form NRC-741; perform independent tests to assure the accurate identification and measurement of the material received, including its weight and enrichment; and indicate the results of these tests on the receivers portion of the form.";

PART 73—PHYSICAL PROTECTION OF PLANTS AND MATERIALS

§ 73.1 [Amended]

156. In § 73.1(b)(2), the words "and Part 110" are inserted after the words "Part 70";

§ 73.36 [Amended]

157. In § 73.36(b), a new paragraph (3) is added as follows: "The Director of the appropriate Nuclear Regulatory Commission Inspection and Enforcement Regional Office listed in Appendix A, shall be notified immediately if entry of any shipment authorized by an import license is refused by the U.S. Customs Service;

158. New Part 110 is added as follows:

PART 110—EXPORT AND IMPORT OF NUCLEAR FACILITIES AND MATERIALS

Subpart A—General Provisions

Sec.
110.1 Purpose and scope.
110.2 Definitions.
110.3 Interpretations.
110.4 Communications.
110.5 License requirements.
110.6 Reexports.

Subpart B—Exemptions

110.10 General.
110.11 Prime contractors of the Department of Energy.
110.12 Intergovernmental cooperative activities.
110.13 Export of byproduct material.
110.14 Export of unimportant quantities of source material.

Subpart C—General Licenses

110.20 General.
110.21 Export of byproduct material.
110.22 Export of source material.
110.23 Export of special nuclear material. [Reserved].
110.24 Schedule A.
110.25 General license for import.

Subpart D—Applications for Specific Licenses

110.30 Filing a license application.
110.31 General requirements for contents of an export license application.
110.32 Additional requirements for contents of an export license application for a utilization facility.
110.33 Additional requirements for contents of an export license application for special nuclear material, source material and byproduct material.
110.34 Requirements for contents of an import license application.
110.35 Further information from an applicant.
110.36 Fees.
110.37 Withdrawal of an application.

Subpart E—Review of Specific License Applications

110.40 Commission review.
110.41 Executive Branch review.
110.42 Standards and procedures for issuing a license.

Subpart F—License Terms and Related Provisions

110.50 Terms.
110.51 Amendments.
110.52 Revocation, suspension and modification.
110.53 United States address for an applicant; records and inspections.

Subpart G—Violations and Enforcement

110.60 Violations.
110.61 Notice of violation.
110.62 Order to show cause.
110.63 Order for revocation, suspension or modification.
110.64 Civil penalty.
110.65 Settlement and compromise.
110.66 Enforcement hearing.

Subpart H—Public Notification and Availability of Documents and Records

110.70 Notice of receipt of an application.
110.71 Notice of withdrawal of an application.
110.72 Availability of documents in the Public Document Room.
110.73 Availability of NRC records.

Subpart I—Public Participation Procedures Concerning License Applications

110.80 Written comments.
110.81 Hearing request or intervention petition.
110.82 Answers and replies.
110.83 Commission action on a hearing request or intervention petition.
110.84 Notice of hearing consisting of written comments.
110.85 Notice of oral hearing.
110.86 Conditions in a notice or order.
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AUTHORITY: Secs. 51, 53, 62, 63, 64, 65, 81, 82, 103, 104, 161, 181, 182, 183, 189, Pub. L. 83-703, 68 Stat. 929, 930, 932, 933, 936, 937, 948, 953, 954, 956, as amended (42 U.S.C. 2071, 2073, 2092, 2093, 2094, 2095, 2111, 2112, 2133, 2134, 2201, 2231, 2232, 2233, 2239); secs. 201, as amended, 202, 206, Pub. L. 93-438, 88 Stat. 1242, 1244, 1246, Pub. L. 94-79, 89 Stat. 413-414 (42 U.S.C. 5841, 5842, 5846).

Sec. 110.50 also issued under sec. 184, Pub. L. 83-703, 68 Stat. 954, as amended (42 U.S.C. 2234); sec. 110.52 also issued under sec. 186, Pub. L. 83-703, 68 Stat. 955 (42 U.S.C. 2236).

For the purposes of sec. 223, Pub. L. 83-703, 68 Stat. 958, as amended (42 U.S.C. 2273), secs. 110.50 and 110.120-110.126 also issued under sec. 161i., Pub. L. 83-703, 68 Stat. 948 (42 U.S.C. 2201(i)), and sec. 110.53 also issued under sec. 161o., Pub. L. 83-703, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

Secs. 110.80-110.113 also issued under 5 U.S.C. 552, 554; secs. 110.130-110.135 also issued under 5 U.S.C. 553.

Subpart A—General Provisions

§ 110.1 Purpose and scope.

(a) The regulations in this part apply to all persons in the United States including persons in Agreement States, and prescribe procedures and standards, pursuant to the Atomic Energy Act of 1954, as amended, and Title II of the Energy Reorganization Act of 1974, as amended, for the export and import of utilization facilities, special nuclear material, source material and byproduct material.

(b) These regulations do not apply to the export or import of nuclear facilities, material or technology by the Departments of Energy and Defense under the authority of sections 54, 57b., 64, 82, 91 and 144b. and 144c. of the Atomic Energy Act.

(c) These regulations contain no authority for the export or import of production facilities.

§ 110.2 Definitions.

(a) "Agreement for cooperation" means any agreement with another nation or group of nations concluded under section 123 of the Atomic Energy Act.

(b) "Agreement State" means any State of the United States with which the Nuclear Regulatory Commission, or its predecessor, the Atomic Energy Commission, has entered into an agreement under section 274b. of the Atomic Energy Act.

(c) "Atomic Energy Act" means the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011).

(d) "Byproduct material" means radioactive material (except special nuclear material) produced by exposure to the radiation incident to the process of producing or using special nuclear material.

(e) "Classified information" means National Security Information classified pursuant to Executive Order No. 11652 or any superseding order.

(f) "Commission" means the United States Nuclear Regulatory Commission or its duly authorized representatives.

(g) "Common defense and security" means the common defense and security of the United States.

(h) "Department of Energy" means that Government agency succeeding to the Energy Research and Development Administration's nuclear export and import responsibilities.

(i) "Depleted uranium" means uranium in which the isotope uranium-235 is less than 0.711 percent by weight of the total uranium present.

(j) "Effective kilograms of special nuclear material" means:

(1) For plutonium and uranium-233, their weight in kilograms;

(2) For uranium enriched 1 percent or greater in the isotope U-235, its element weight in kilograms multiplied by the square of its enrichment expressed as a decimal weight fraction; and

(3) For uranium enriched below 1 percent in the isotope U-235, its element weight in kilograms multiplied by 0.0001.

(k) "Energy Reorganization Act" means the Energy Reorganization Act of 1974, as amended (42 U.S.C. 5801).

(l) "Executive Branch" means those United States government agencies, other than the Commission, which are not part of the Legislative or Judicial Branches.

(m) "Export" means export from the United States.

(n) "General license" means an export or import license effective without the filing of a specific application with the Commission or the issuance of licensing documents to a particular person.

(o) "Government agency" means any Executive Branch department, commission, independent establishment or corporation, wholly or partly owned by the United States and which is an instrumentality of the United States.

(p) "Import" means import into the United States.

(q) The phrase "introduced into a hearing" means the introduction or incorporation of testimony or documentary matter into the record of a hearing.

(r) "License" means a general or specific export or import license issued pursuant to this part.

(s) "Licensee" means a person authorized by a specific or a general license to export or import pursuant to this part.

(t) "Non-nuclear-weapon State" means any State not a nuclear-weapon State as defined in the Treaty on the Non-Proliferation of Nuclear Weapons. "Nuclear-weapon State" means any State which has manufactured and exploded a nuclear weapon or other nuclear explosive device prior to January 1, 1967.

(u) "NRC records" means any documentary material made by, in the possession of, or under the control of the Commission under Federal law or in connection with the transaction of public business as evidence of any of the Commission's activities.

(v) "Nuclear reactor" means an apparatus, other than an atomic weapon or nuclear explosive device, designed or used to sustain nuclear fission in a self-supporting chain reaction.

(w) "Packaging" means one or more receptacles and wrappers and their contents, excluding any special nuclear material, source material or byproduct material, but including absorbent material, spacing structures, thermal insulation, radiation shielding, devices for cooling and for absorbing mechanical shock, external fittings, neutron moderators, nonfissile neutron absorbers and other supplimentary equipment.

(x) "Participant" means a person, identified in the hearing notice or other Commission order, taking part in a hearing conducted by the Commission under this part, including any person to whom the Commission grants a hearing or leave to intervene in an export or import licensing hearing, either as a matter of right or as a matter of discretion.

(y) "Person" means any individual, corporation, partnership, firm association, trust, estate, institution, group, Government agency other than the Commission or the Department of Energy; any State or political entity within a State; any foreign government or political entity of such government; and any authorized representative of the preceding.

(z) "Public Document Room" means the place at 1717 H Street NW., Washington, D.C. where public records of the Commission are ordinarily available for inspection.

(aa) "Public health and safety" means the public health and safety of the United States.

(bb) "Reactor coolant pressure boundary" means all those pressure-containing components of boiling and pressurized water-cooled nuclear power reactors such as pressure vessels, piping, pumps and valves, which are:

(1) Part of the reactor coolant system; or

(2) Connected to the reactor coolant system, up to and including (i) the outermost containment isolation valve in system piping which penetrates primary reactor containment; (ii) the second of two valves normally closed during normal reactor operation in system piping which does not penetrate primary reactor containment; and (iii) the reactor coolent system safety and relief valves. For nuclear power reactors of the direct cycle boiling water type, the reactor coolant system extends to and includes the outermost containment isolation valve in the main steam and feedwater piping.

(cc) "Reexport" means the transport from one foreign country to another of a utilization facility, special nuclear material, source material or byproduct material previously exported from the United States.

(dd) "Sealed source" means any special nuclear material or byproduct material encased in a capsule designed to prevent leakage or escape of that nuclear material.

(ee) "Secretary" means the Secretary of the Commission.

(ff) "Source material" means:

(1) Uranium or thorium, other than special nuclear material; or

(2) Ores which contain by weight 0.05 percent or more of uranium or thorium, or any combination of these.

(gg) "Special nuclear material" means plutonium, uranium-233 or uranium enriched above 0.711 percent by weight in the isotope uranium-235.

(hh) "Specific license" means an export or import license issued to a named person or entity upon an application filed pursuant to this part.

(ii) "Transfer" means the transfer of possession from one person to another person.

(jj) "Transport" means the physical movement of material from one location to another.

(kk) "United States," when used in a geographical sense, includes all territories and possessions of the United States, the Canal Zone, and Puerto Rico.

(ll) "Utilization facility" means any nuclear reactor other than one designed or used primarily for the formation of plutonium or U-233.

§ 110.3 Interpretations.

Except as authorized by the Commission in writing, only the written interpretations of the meaning of the regulations in this part by the Commission's General Counsel are binding upon the Commission.

§ 110.4 Communications.

Unless otherwise specified in this part, all communications concerning this part should be addressed to the Assistant Director for Export/Import and International Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, or delivered in person to the Commission's offices at 1717 H Street NW., Washington, D.C. or 7735 Old Georgetown Road, Bethesda, Md.

§ 110.5 License requirements.

Except as exempted under this part, no person may export or import a utilization facility, special nuclear material, source material or byproduct material, other than as authorized by a specific or general license issued pursuant to this part.

§ 110.6 Reexport.

(a) No person may reexport a utilization facility, special nuclear material, source material or byproduct material unless:

(1) At the time of the original export, the material could have been exported to the new country of ultimate destination under the authority of an exemption from licensing requirements or of a general license; or

(2) The reexport has been specifically authorized by the Department of Energy in response to a request submitted by the original license applicant or by the foreign consignee or government.

(b) Reexport requests shall be sent to the Department of Energy, Office of Nuclear Affairs, International Programs, Washington, D.C. 20545.

Subpart B—Exemptions

§ 110.10 General.

(a) In response to a petition or upon its own initiative, the Commission may grant an exemption from the regulations in this part, provided it determines that the exemption is authorized by law, is not inimical to the common defense and security and does not constitute an unreasonable risk to the public health and safety.

(b) Exemptions under the provisions of the Atomic Energy Act will be granted only after coordination with the Executive Branch pursuant to Executive Order 11902 and after completion of rulemaking proceedings pursuant to Subpart L of this part.

(c) Exemptions do not relieve any person from complying with the regulations of other Government agencies applicable to exports or imports under their authority.

***§ 110.10 Prime contractors of the Department of Energy.**

Any prime contractor of the Department of Energy is exempt from the requirements of sections 53, 62 and 81 of the Atomic Energy Act and from the regulations in this part to the extent that the contractor, under his prime contract, exports or imports special nuclear material, source material or byproduct material for:

(a) The performance of work for a Department of Energy activity not licensed by the Commission at a Government-owned or controlled site, including the transportation of such material to or from the site and the performance of contract services during temporary interruptions of the transportation;

(b) Research in, or development, manufacture, storage, testing or transportation of atomic weapons or their components; or

(c) The use or operation of nuclear reactors or other nuclear devices in a Government-owned vehicle or vessel.

§ 110.12 Intergovernmental cooperative activities.

Government agencies are exempt from the requirements of section 53 of the Atomic Energy Act and from the regulations in this part to the extent that they export, at any one time, up to 3 grams of any type of special nuclear material for use in activities authorized by an intergovernmental cooperative agreement between the United States and a foreign nation, group of nations or international organization, provided the Commission is notified of the destination and purpose of the export.

§ 110.13 Export of byproduct material.

Any person is exempt from the requirements of section 81 of the Atomic Energy Act and from the regulations in this part to the extent that such person exports the following:

(a) Timepieces or hands or dials containing not more than the following specified quantities of byproduct material and not exceeding the following specified levels of radiation:

(1) 25 millicuries of tritium per timepiece;

(2) 5 millicuries of tritium per hand;

(3) 15 millicuries of tritium per dial (bezels will be considered as part of dial);

(4) 100 microcuries of promethium-147 per watch hand or 200 microcuries of promethium-147 per any other timepiece;

(5) 20 microcuries of promethium-147 per watch hand or 40 microcuries of promethium-147 per other timepiece hand;

(6) 60 microcuries of promethium-147 per watch dial or 120 microcuries of promethium-147 per other timepiece dial (bezels will be considered as part of the dial);

(7) The levels of radiation from hands and dials containing promethium-147, when measured through 50 milligrams per square centimeter of absorber, will not exceed 0.1 millirad per hour at 10 centimeters from any surface for wrist watches; 0.1 millirad per hour at 1 centimeter from any surface for pocket watches; and 0.2 millirad per hour at 10 centimeters from any surface for any other timepiece;

(b) Lock illuminators containing not more than 15 millicuries of tritium or not more than 2 millicuries of promethium-147 installed in automobile locks. The levels of radiation from each lock illuminator containing promethium-147 will not exceed 1 millirad per hour at 1 centimeter from any surface when measured through 50 milligrams per square centimeter of absorber;

(c) Precision balances containing not more than 1 millicure of tritium per balance or nor more than 0.5 millicurie of tritium per balance part;

(d) Automobile shift quadrants containing not more than 25 millicuries or tritium;

(e) Marine compasses containing not more than 750 millicuries of tritium gas and other marine navigational instruments containing not more than 250 millicuries of tritium gas;

(f) Thermostat dials and pointers containing not more than 25 millicuries of tritium per thermostat;

(g) Electron tubes,[1] provided that no

[1] For purposes of this subparagraph "electron tubes" include spark gap tubes, power tubes, gas tubes including glow lamps, receiving tubes, microwave tubes, indicator tubes, pickup tubes, radiation detection tubes, and any other completely sealed tube that is designed to conduct or control electrical currents.

tube has a level of radiation exceeding 1 millirad per hour at 1 centimeter from any surface, when measured through 7 milligrams per square centimeter of absorber, and that no tube contains more than one of the following specified quantities of byproduct material:

(1) 150 millicuries of tritium per microwave receiver protector tube or 10 millicuries of tritium per any other electron tube;

(2) 1 microcurie of cobalt-60;

(3) 5 microcuries of nickel-63;

(4) 30 microcuries of krypton-85;

(5) 5 microcuries of cesium-137; or

(6) 30 microcuries of promethium-147; and

(h) Ionizing radiation measuring instruments containing, for purposes of internal calibration or standardization, byproduct material not exceeding the applicable quantity set forth in § 30.71, Schedule B, of this chapter;

(i) Synthetic plastic resins containing scandium-46 which are designed for sand-consolidation in oil wells and which have been manufactured or otherwise obtained in accordance with a specific license issued pursuant to § 32.17 of this chapter or equivalent regulations of an Agreement State;

(j) Tritium, krypton-85 or promethium-147 in self-luminous products manufactured, processed, produced or transferred in accordance with a specific license issued pursuant to § 32.22 of this chapter, provided that the tritium, krypton-85 or promethium-147 is not used in products primarily for frivolous purposes or in toys or adornments; or

(k) Byproduct material in gas and aerosol detectors designed to protect life or property from fires and airborne hazards and manufactured, processed, produced or transferred in accordance with a specific license issued pursuant to § 32.26 of this chapter;

(l) Spark gap irradiators containing not more than 1 microcurie of cobalt-60 per spark gap irradiator for use in electrically ignited fuel oil burners having a firing rate of at least 3 gallons per hour (11.4 liters per hour).

§ 110.14 Export of unimportant quantities of source material.

Any person is exempt from the requirements of section 62 of the Atomic Energy Act and from the regulations in this part to the extent that such person exports source material in any chemical mixture, compound, solution or alloy in which the source material is by weight less than 0.05 percent.

Subpart C—General Licenses

§ 110.20 General.

(a) In response to a petition or upon its own initiative, the Commission may issue a general license for the export or import of special nuclear material, source material and byproduct material, provided it determines that any exports or imports made pursuant to the general license will not be inimical to the common defense and security or constitute an unreasonable risk to the public health and safety.

(b) General licenses will be issued only after coordination with the Executive Branch pursuant to Executive Order 11902 and after completion of rulemaking proceedings pursuant to Subpart L of this part.

(c) General licenses do not relieve any person from complying with the regulations of other Government agencies applicable to exports or imports under their authority.

§ 110.21 Export of byproduct material.

The following general licenses are hereby issued authorizing any person to export:

(a) The following to any country, except Southern Rhodesia or countries listed in § 110.24:

(1) Byproduct material having an atomic number from 3 to 83, inclusive; or

(2) Tritium contained in luminous safety devices installed in aircraft as generally licensed items pursuant to § 31.7 of this chapter.

(b) Byproduct material having an atomic number from 3 to 83, inclusive, to Southern Rhodesia, to the extent that the byproduct material is contained in medicinals or pharmaceutical preparations or in devices, applicators or appliances designed for use in medical diagnosis or therapy.

(c) 5,000 curies of tritium and 5,000 curies of polonium-210 in a calendar quarter to any country, except Southern Rhodesia, Poland or Rumania or countries listed in § 110.24, provided that no more than 1,000 curies of tritium may be exported by any person to any one country in a calendar quarter; that no more than 100 curies of tritium may be exported by any person in a single shipment under this general license; and that the material is in one or more of the following forms or products:

(1) Tritium activitated luminous paint;

(2) Tritium labeled organic compounds;

(3) Tritiated accelerator targets;

(4) Polonium-210 static eliminators;

(5) Polonium-210 neutron sources;

(6) Tritium or polonium-210 calibration standards;

(7) Luminescent light sources;

(8) Tritium sources for chromatography instruments;

(9) Electron tubes; or

(10) Tritium as a contaminant of helium-3 in a concentration not to exceed 2.5 millicuries of tritium per liter of helium-3.

(d) Byproduct material as specified in paragraph (c) to Southern Rhodesia, to the extent that the byproduct material is contained in medicinals or pharmaceutical preparations or in devices, applicators or appliances designed for use in medical diagnosis or therapy.

(e) Americium-241 to any country, except Southern Rhodesia, Poland, Rumania or countries listed in § 110.24.

(f) Byproduct material having an atomic number from 3 to 83, inclusive, in labeled organic or inorganic compounds, in quantities up to 1 curie per shipment, to any country listed in § 110.24, except North Korea, Vietnam, Cambodia, Cuba, and Southern Rhodesia.

(g) Tritium in labeled organic compounds in quantities up to 100 curies per shipment, to Rumania, Poland, and any country listed in § 110.24, except North Korea, Vietnam, Cambodia, Cuba, and Southern Rhodesia.

§ 110.22 Export of source material.

The following general licenses are hereby issued authorizing any person to export:

(a) At any one time up to 1 kilogram of source material to any country, except Southern Rhodesia or countries listed in § 110.24, provided that no more than 100 kilograms per year may be exported by any one person to any one country.

(b) Thorium in incandescent gas mantles to any country, except Southern Rhodesia or countries listed in § 110.24.

(c) Depleted uranium in the form of counterweights installed in aircraft, rockets, projectiles or missiles, to any country, except Southern Rhodesia or countries listed in § 110.24, provided that such counterweights have been manufactured under a specific license issued by the Commission or the Atomic Energy Commission and have been impressed with the following statement, clearly legible after plating: "Depleted Uranium".

(d) Thorium contained in finished aircraft engine parts containing nickel-thoria alloy to any country, except Southern Rhodesia or countries listed in § 110.24, provided that:

(1) The thorium is dispersed in the nickel-thoria alloy in the form of finely divided thoria (thorium dioxide); and

(2) The thorium content in the nickel-thoria alloy does not exceed 4 percent by weight.

(e) Depleted uranium when fabricated as shielding and contained in radiographic exposure or teletherapy devices, X-ray units, radioactive thermoelectric generators or packaging for the transportation of radioactive materials, in quantities up to 1,000 kilograms per shipment to any country,

except Southern Rhodesia or countries listed in § 110.24.

(f) Depleted uranium when fabricated as shielding and contained in radiographic exposure or teletherapy devices, in quantities not to exceed 500 pounds per device, to Southern Rhodesia, to the extent that such devices are for use in medical diagnosis or therapy.

§ 110.24 Schedule A.

(a) Albania, (b) Bulgaria, (c) Cambodia, (d) Cuba, (e) Czechoslovakia, (f) Estonia, (g) German Democratic Republic (including East Berlin), (h) Hungary, (i) Laos, (j) Latvia, (k) Lithuania, (l) North Korea, (m) Outer Mongolia, (n) Peoples Republic of China, (o) Union of Soviet Socialist Republics, (p) Vietnam.

§ 110.25 General license for import.

A general license is hereby issued authorizing any person to import byproduct material and source material which he is authorized to possess or transfer for sale or distribution in the United States under a specific or general license issued by the Commission or an Agreement State.

Subpart D—Applications for Specific Licenses

§ 110.30 Filing a license application.

(a) A license application shall be filed with the Assistant Director for Export/Import and International Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, or delivered in person to the Commission's offices at 1717 H Street, NW., Washington, D.C., or 7735 Old Georgetown Road, Bethesda, Md.

(b) An application for the export of special nuclear material, source material and byproduct material should be filed on Form NRC-7.

(c) An application for the export of utilization facilities and for all imports should be submitted by letter.

(d) If an import license application involves material which is intended for subsequent export, applicants may simultaneously apply for the appropriate export license. The issuance of an import license does not imply approval for a subsequent export.

§ 110.31 General requirements for contents of an export license application.

(a) Each application for an export license shall state:

(1) Name and U.S. address of applicant;

(2) Name and address of supplier of material, if different from applicant;

(3) Name and address of ultimate consignee;

(4) Name and address of intermediate consignees;

(5) Date of proposed first shipment;

(6) Date of proposed completion of final shipment;

(7) Contractual delivery dates, if established;

(8) Proposed expiration date of export license; and

(9) End-use of material or equipment by all consignees, intermediate and ultimate, with sufficient detail to permit accurate evaluation of the justification for the proposed export.

(b) Information contained in previous applications may be incorporated by reference.

§ 110.32 Additional requirements for contents of an export license application for a utilization facility.

Each application for a license to export a utilization facility shall contain the following information in addition to the general requirements in § 110.31:

(a) General information:

(1) Type of facility;

(2) Design power level in thermal and (where appropriate) electrical watts;

(3) Name of the facility, if known;

(4) Location where the facility is to be installed or built;

(5) Proposed criticality date or date of start of operation; and

(6) Total dollar value of all items under the proposed export.

(b) A list of structures, systems or components to be exported which are associated with the construction, maintenance and operation of the utilization facility proposed for export and which are in the categories described in paragraphs (b)(1) through (b)(6) of this section. Except for those individually shipped items with a value exceeding $100,000, such list need only identify the items by appropriate category titles.

(1) Reactor coolant pressure boundary: Those structures, systems and components of a nuclear reactor located within or forming a part of the reactor coolant pressure boundary.

(2) Instrumentation: Instrumentation systems for indication, control and protection of a nuclear reactor, including their associated equipment, which are directly associated with structures, systems and components located within or forming part of the reactor coolant pressure boundary and which are normally required for routine startup, power operation, or shutdown of the reactor, or for periodic testing. Portions of other instrumentation systems of the facility mounted in a common panel with the covered systems are included in this category.

(3) Fuel handling equipment: Fuel handling equipment used to load new or recycled fuel into a reactor core, to unload fuel from a reactor core, or to transfer fuel within a reactor facility and place it into a facility provided for onsite storage or into fuel shipping equipment.

(4) Experimental facilities: Experimental facilities whose primary purpose is the irradiation or activation of material by radiation from a nuclear reactor, or which are used with a reactor to provide a source of nuclear radiation for tests or experiments.

(5) Spare or replacement components: Spare or replacement components or parts for items in paragraphs (b)(1) through (b)(4) of this section which are furnished during the duration of the export license as part of the initial purchase or under a warranty from the vendor.

(6) Equipment or tools: Special equipment or tools needed to service, maintain, or replace items in paragraphs (b)(1) through (b)(5) of this section. If equipment or tools in this category are not intended by the applicant to remain with the facility being exported but are intended to be reexported, resold, retransferred, disposed of or returned to the United States, such actions shall be described.

(c) An itemized list of other structures, systems or components to be exported which are associated with the construction, maintenance and operation of the utilization facility proposed for export but which do not fall within the categories listed in paragraph (b) of this section. The itemized list should identify the specific items to be exported and should reflect the commodity control list numbers in the regulations of the Office of Export Administration, U.S. Department of Commerce (see 15 CFR Part 399). (The Commission will determine for each listed item whether it should license the export.)

(d) Identification of any application filed with the Department of Commerce for components of the same facility.

§ 110.33 Additional requirements for contents of an export license application for special nuclear material, source material and byproduct material.

Each application for a license to export special nuclear material, source material or byproduct material shall contain the following, in addition to the general requirements specified in § 110.31:

(a) Any applicable contract number, if known, of material supplied under a Department of Energy enrichment, lease or sale contract;

(b) Where materials are intended for use in a utilization facility, estimated date of first use by ultimate or intermediate consignee;

(c) Chemical and physical form, including, for enriched uranium, the weight percentage of isotopic enrichment, and, for plutonium, the sum of the percentages of P-239 content and Pu-241 content;

(d) Quantity in grams or kilograms (curies for byproduct material) including the total weight of (1) the material in the form exported, (2) the con-

tained uranium or plutonium, and (3) the contained U-235 in enriched uranium; and

(e) For source and special nuclear material, the country of origin, including the country where the special nuclear material was produced.

§ 110.34 Requirements for contents of an import license application.

Each application for an import license shall state:

(a) Name and U.S. address of applicant;

(b) Country and facility from which material is being imported;

(c) Name and address of supplier of material;

(d) Destination and ultimate disposition of material (e.g., will material be subsequently exported);

(e) Date of proposed first shipment;

(f) Date of proposed completion of final shipment;

(g) Chemical and physical form, including, for enriched uranium, the weight percentage of enrichment and, for plutonium, the sum of the percentages of Pu-239 content and Pu-241 content; and

(h) Quantity in grams or kilograms including the total weight of (i) the material in the form imported, (ii) the contained uranium or plutonium, and (iii) the contained U-235 in enriched uranium.

(i) Mode of transport and package identification (including IAEA Certificate of Component Authority number).

§ 110.35 Further information from an applicant.

(a) The Commission may require further information from the applicant if necessary to complete the review of the application.

(b) Each applicant shall file an amendment to his application whenever there is any substantive change in the information described in his application.

§ 110.36 Fees.

No fees are required for export or import licenses.

§ 110.37 Withdrawal of an application.

(a) An applicant may withdraw an application at any time.

(b) An applicant shall withdraw an application when it is superseded by a new application or when he no longer intends to use his license if issued.

(c) The withdrawal of an application does not authorize the removal of any NRC record from Commission files.

Subpart E—Review of Specific License Applications

§ 110.40 Commission review.

(a) Except as the Commission may provide otherwise, applications for the following will be reviewed by the Commissioners after the Commission receives, whenever appropriate, the views of the Executive Branch:

(1) A utilization facility;

(2) 1 effective kilogram or more of special nuclear material, except for routine export license applications for reloads of low-enriched uranium fuel for use in power reactors with respect to which a previous export license to receive fuel has been issued;

(3) 10,000 kilograms or more of source material; and

(4) Any other license application determined by the staff or any Commissioner to warrant review by the Commission.

(b) If the Commission is unable to complete its review within 60 days after receipt of Executive Branch views, or after receipt of the license application when Executive Branch views are not required, it will inform the applicant in writing of the reason for delay and, as appropriate, provide follow-up reports.

§ 110.41 Executive Branch review.

(a) Except as provided in paragraph (c), the Commission will forward export license applications to the Department of State (Designated by Executive Order as lead agency for Executive Branch review) requesting Executive Branch views on:

(1) Whether the proposed export would be inimical to the common defense and security, along with relevant supporting information or documentation; and

(2) Where applicable, whether the proposed export would be under the terms of an agreement for cooperation.

(b) The Commission may request the Executive Branch to provide additional information and briefings, both classified and unclassified, as necessary.

(c) The Executive Branch and the Commission have agreed that export license applications in the following categories will not require case-by-case Executive Branch review:

(1) Byproduct material: All types and quantities except tritium in quantities exceeding 100 curies;

(2) Source material: All exports for non-nuclear end-uses, and exports for nuclear end-uses under 250 kilograms;

(3) Low-enriched uranium: 1 Kilogram or less of U-235 in uranium enriched to less than 20 percent in U-235;

(4) High-enriched uranium: 40 effective grams or less of U-235 in uranium enriched to 20 percent or more in U-235 (calculated in accordance with § 70.4 of this chapter); and

(5) Plutonium: 10 grams or less. This paragraph does not apply to exports with end-uses related to uranium enrichment, chemical reprocessing, heavy water production, plutonium handling and breeder reactors, and is subject to other limitations which the Executive Branch or the Commission may, from time-to-time, deem necessary.

§ 110.42 Standards and procedures for issuing a license.

(a) After receipt, whenever appropriate, of Executive Branch views, the Commission will issue a license if it determines:

(1) That the proposed export or import would not be inimical to the common defense and security or constitute an unreasonable risk to the public health and safety; and

(2) That the proposed export of a utilization facility or of special nuclear material would be under the terms of an agreement for cooperation, except for a proposed export of up to 100 grams per shipment of special nuclear material which is (i) diluted so that it is no longer usable for any nuclear activity relevant from the point of view of safeguards, or (ii) is practicably irrecoverable.

(b) After receipt, whenever appropriate, of Executive Branch views, the Commission may deny a license applicantion if it determines that the proposed export or import does not meet the standards of paragraph (a). The applicant will be notified in writing of the reason for denial or proposed denial.

Subpart F—License Terms and Related Provisions

§ 110.50 Terms.

(a) General and specific licenses.

(1) Each license is subject to all applicable provisions of the Atomic Energy Act and to all applicable rules, regulations, decisions and orders of the Commission.

(2) Each license is subject to amendment, suspension, revocation or incorporation of separate conditions when required by amendments of the Atomic Energy Act or other applicable law, or by other rules, regulations, decisions or orders issued in accordance with the terms of the Atomic Energy Act or other applicable law.

(3) Each license authorizes export or import only and does not authorize any person to receive title to, acquire, receive, possess, deliver, use or transfer a utilization facility, special nuclear material, source material or byproduct material.

(4) Except for packaging and fuel element hardware, each special nuclear material, source material or byproduct material license authorizes the export or import of the material only.

(b) Specific licenses.

(1) Each specific license will have an expiration date.

(2) Each licensee with a specific license may export or import only for the purpose stated in his license application.

(3) Each licensee with a specific license shall surrender his export license to the U.S. Collector of Customs or U.S. Postmaster, as appropriate, upon completion of shipment of the quantity licensed.

(4) Each licensee with a specific license shall promptly return any license which has expired or is revoked, unused or partially used and not intended to be used further, to the Assistant Director for Export/Import and International Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

(5) Each licensee with a specific license authorized to export or import special nuclear material shall not proceed to export or import and shall notify the Commission promptly if he knows or has reason to believe that the packaging requirements of Part 71 of this chapter have not been met.

(6) Each licensee with a specific license authorized to export or import special nuclear material is responsible for compliance with the physical protection requirements of Part 73 of this chapter, unless a domestic licensee of the Commission has assumed that responsibility and the Commission has been so notified.

(7) Each licensee with a specific license authorized to export a utilization facility may export under his license only items specifically required for that utilization facility.

(8) A specific license to export or import a utilization facility confers no authority to export or import any special nuclear material, source material or byproduct material.

(9) A specific license may be transferred, assigned or disposed of to another person only with the approval of the Commission by license amendment.

§ 110.51 Amendments.

(a) A licensee may request an amendment to change any part of his license.

(b) A licensee shall request an amendment whenever it is necessary to maintain compliance with the terms, conditions and other provisions of his license.

(c) If a licensee requests an amendment to renew his license within 30 days prior to the scheduled expiration date, the license will remain valid until the Commission has acted on his request.

(d) The Commission will review requests for amendments using, as appropriate, the same procedures and standards as for original license applications.

§ 110.52 Revocation, suspension and modification.

(a) A license may be revoked, suspended or modified for a condition which would warrant denial of the original license application.

(b) The Commission may require further information from a licensee for the purpose of determining whether a license should be revoked, suspended or modified.

(c) Except when the common defense and security or public health and safety requires otherwise, no license will be revoked, suspended or modified before the licensee is informed in writing of the condition which warrants such action and afforded the opportunity to reply and be heard under procedures patterned on those in Subpart J.

§ 110.53 United States address for an applicant; records and inspections.

(a) Each license applicant shall state on his application an address in the United States where papers may be served and where records required by the Commission will be maintained.

(b) Each licensee shall maintain records concerning his exports or imports for 5 years after each export or import, except that byproduct material records shall be maintained for 2 years.

(c) Each licensee shall permit the Commission to inspect his records, premises and activities pertaining to his export and import shipments when necessary to fulfill the requirements of the Atomic Energy Act and the Energy Reorganization Act.

Subpart G—Violations and Enforcement

§ 110.60 Violations.

(a) Any licensee who violates any provision of the Atomic Energy Act or Energy Reorganization Act or of any rule, regulation, license, decision or order promulgated under these Acts, may be guilty of a crime, and, upon conviction, may be punished by fine or imprisonment, or both, as provided by law.

(b) An injunction or other court order may be sought to prohibit any violation.

(c) A court order may be sought for payment of a civil penalty imposed pursuant to section 234 of the Atomic Energy Act or section 206 of the Energy Reorganization Act.

(d) A violation (which may be a material false statement, including a material omission) may result in the revocation, suspension or modification of a license.

§ 110.61 Notice of violation.

(a) Before instituting any enforcement action for an alleged violation, including an action to impose a civil penalty, the Commission will serve on the licensee written notice of violation, except as provided in paragraph (d) of this section.

(b) The notice will state the alleged violation and require the licensee to respond in writing, within 20 days or other specified time, either by denying the allegations or stating the corrective steps taken or to be taken and the date when full compliance will be achieved.

(c) If an adequate reply is not received within the time specified, the notice may provide that an order to show cause may be issued pursuant to § 110.62 or a proceeding instituted to impose a civil penalty pursuant to § 110.64.

(d) The notice of violation may be omitted and an order to show cause issued in cases where the Commission determines that the violation is willful or that the public interest so requires.

§ 110.62 Order to show cause.

(a) In response to a violation, the Commission may institute a proceeding to revoke, suspend or modify a license by issuing an order to show cause:

(1) Stating the alleged violation and proposed enforcement action; and

(2) Informing the licensee of his right, within 20 days or other specified time, to file a written answer and demand a hearing.

(b) A licensee's answer consenting to the issuance of an order in substantially the same form proposed in the order to show cause shall constitute a waiver by the licensee of a hearing and of all rights to seek further Commission or judicial review of the order.

(c) The order to show cause may be omitted and an order issued to revoke, suspend or modify the license in cases where the Commission determines that the violation is willful or that the public interest so requires.

§ 110.63 Order for revocation, suspension or modification.

(a) In response to a violation, the Commission may revoke, suspend or modify a license by issuing an order:

(1) Stating the alleged violation and the effective date of the proposed enforcement action;

(2) Informing the licensee of his right, within 20 days or other specified time, to file a written answer and demand a hearing.

(b) If an answer is not filed within the time specified, the enforcement action will become effective and permanent as proposed.

(c) If a timely answer is filed, the Commission, after considering the answer, will issue an order dismissing the proceeding, staying the effectiveness of the order or taking other appropriate action.

(d) The order may be made effective immediately, with reasons stated,

pending further hearing and order, when the Commission determines that the violation is willful or that the public interest so requires.

§ 110.64 Civil penalty.

(a) In response to a violation the Commission may institute a proceeding to impose a civil penalty under section 234 of the Atomic Energy Act by issuing a notice to the licensee:

(1) Stating the alleged violation and the amount of the proposed penalty;

(2) Informing the licensee of his right, within 20 days or other specified time, to file a written answer and demand a hearing; and

(3) Advising that a delinquent payment for a subsequently imposed penalty may be referred to the Attorney General for collection pursuant to section 234c of the Atomic Energy Act.

(b) If an answer is not filed within the time specified, the Commission will issue an order imposing the proposed penalty.

(c) If a timely answer is filed, the Commission, after considering the answer, will issue an order dismissing the proceeding or imposing a penalty subject to any required hearing.

(d) Except when the matter has been referred to the Attorney General for collection, payment of penalties shall be made by check, draft or money order payable to the Treasurer of the United States, and mailed to the Secretary, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

(e) An enforcement action to impose a civil penalty will not itself revoke, modify or suspend any license under this part.

§ 110.65 Settlement and compromise.

At any time after issuance of an order for any enforcement action under this subpart, an agreement may be entered into for settlement of the proceeding or compromise of a penalty. Upon approval by the Commission, the terms of the settlement or compromise will be embodied in the order disposing of the enforcement action.

§ 110.66 Enforcement hearing.

(a) If the licensee demands a hearing, the Commission will issue an order specifying the time and place.

(b) A hearing pursuant to this subpart will be conducted under the procedures in Subpart G of Part 2.

Subpart H—Public Notification and Availability of Documents and Records

§ 110.70 Public notice of receipt of an application.

(a) The Commission will notice the receipt of each export or import license application by placing a copy in the Public Document Room.

(b) The Commission will also notice in the FEDERAL REGISTER receipt of applications for:

(1) A utilization facility;

(2) 1 effective kilogram or more of special nuclear material; and

(3) 10,000 kilograms or more of source material.

(c) Periodic lists of applications received may be obtained upon request addressed to the Assistant Director for Export/Import and International Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

§ 110.71 Notice of withdrawal of an application.

The Commission will notice the withdrawal of an application by placing a copy of the withdrawal request in the Public Document Room.

§ 110.72 Availability of documents in the Public Document Room.

Unless exempt from disclosure under Part 9 of this chapter, the following documents pertaining to each license application and license will be made available in the Public Document Room:

(a) License application and any requests for amendments;

(b) Commission correspondence with the applicant or licensee;

(c) FEDERAL REGISTER notices;

(d) Commission letter requesting Executive Branch views;

(e) Correspondence from the State Department with Executive Branch views;

(f) Correspondence from foreign governments and international organizations;

(g) Filings pursuant to Subpart I and Commission and Executive Branch responses, if any;

(h) If a hearing is held, the hearing record and decision;

(i) A statement of staff conclusions; and

(j) License, requests for license amendments and amendments.

§ 110.73 Availability of NRC records.

(a) Commission records under this part will be made available to the public only in accordance with Part 9 of this chapter.

(b) Proprietary information provided under this part may be protected under Part 9 and § 2.790 (b), (c) and (d) of this chapter.

Subpart I—Public Participation Procedures Concerning License Applications

§ 110.80 Written comments.

(a) The Commission encourages written comments from the public regarding export and import license applications. The Commission will consider and, if appropriate, respond to these comments.

(b) If possible, these comments should be submitted within 30 days after public notice of receipt of the application and addressed to the Secretary, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Chief, Docketing and Service Branch.

(c) The Commission will provide the applicant with a copy of the comments and, if appropriate, a reasonable opportunity for response.

§ 110.81 Hearing request or intervention petition.

(a) A person may request a hearing or petition for leave to intervene on a license application.

(b) Hearing requests and intervention petitions shall:

(1) State the name, address and telephone number of the requestor or petitioner;

(2) Set forth the issues sought to be raised;

(3) Explain how a hearing or an intervention would contribute to a sound licensing decision; and

(4) Specify, when a person asserts that his interest may be affected, both the facts pertaining to his interest and how it may be affected, with particular reference to the factors in § 110.83.

(c) Hearing requests and intervention petitions will be considered timely only if filed not later than:

(1) 30 days after notice of receipt in the FEDERAL REGISTER, for those applications published in the FEDERAL REGISTER;

(2) 15 days after notice of receipt in the Public Document Room, for all other applications; or

(3) Such other time as may be provided by the Commission.

§ 110.82 Answers and replies.

(a) Unless otherwise specified by the Commission, an answer to a hearing request or intervention petition may be filed within 30 days after the request or petition has been filed, for those applications noticed in the FEDERAL REGISTER, or within 10 days for all other applications.

(b) Unless otherwise specified by the Commission, a reply to an answer may be filed within 10 days after all timely answers have been filed.

(c) Answers and replies should address the factors in § 110.83.

§ 110.83. Commission action on a hearing request or intervention petition.

(a) If a hearing request or intervention petition asserts an interest which may be affected, the Commission will consider:

(1) The nature of the alleged interest;

(2) How that interest relates to issuance or denial; and

(3) The possible effect of any order on that interest, including whether the relief requested is within the Commission's authority, and, if so, whether granting relief would redress the alleged injury.

(b) If a hearing request or intervention petition does not assert or estab-

lish an interest which may be affected, the Commission will consider:

(1) The likely effect of the hearing on the public interest, particularly the common defense and security; and

(2) The extent to which a hearing is likely to provide information useful to the Commission in carrying out its licensing responsibilities.

(c) Untimely hearing requests or intervention petitions may be denied unless good cause for failure to file on time is established. In reviewing untimely requests or petitions, the Commission will also consider:

(1) The availability of other means by which the requestor's or petitioner's interest, if any, will be protected or represented by other participants in a hearing; and

(2) The extent to which the issues will be broadened or action on the application delayed.

(d) Prior to granting or denying a hearing request or intervention petition, the Commission may request further information from the petitioner, requestor, the Commission staff, the Executive Branch or others, and will not grant a hearing request prior to receipt and evaluation of Executive Branch views on the license application.

(e) The Commission will deny a request or petition that pertains solely to matters outside its jurisdiction.

(f) If an issue has been adequately explored in a previous licensing hearing conducted pursuant to this part, a request for a new hearing in connection with that issue will be denied:

(1) Unless a hearing request or intervention petition establishes that an interest may be affected; or

(2) Unless the Commission determines that changed circumstances or new information warrants a new hearing.

(g) After consideration of the factors covered by paragraphs (a) through (f), the Commission will issue a notice or order approving or denying a hearing request or intervention petition. Upon the affirmative vote of two Commissioners a hearing will be ordered. A notice granting a hearing will be published in the FEDERAL REGISTER and will specify whether the hearing will be oral or consist of written comments. A denial notice will set forth the reasons for denial.

§ 110.84 Notice of hearing consisting of written comments.

(a) A notice of hearing consisting of written comments will:

(1) State the issues to be considered;

(2) Provide the names and addresses of participants;

(3) Specify the time limits for participants and others to submit written views and respond to any written comments; and

(4) State any other instructions the Commission deems appropriate.

(b) The Secretary will give notice of any hearing under this section and § 110.85 to any person who so requests.

§ 110.85 Notice of oral hearing.

(a) A notice of oral hearing will:

(1) State the time, place and issues to be considered;

(2) Provide the names and addresses of participants;

(3) Designate the presiding officer;

(4) Specify the time limit for participants and others to indicate whether they wish to present views; and

(5) State any other instructions the Commission deems appropriate.

(b) If the Commission is not the presiding officer, the notice of oral hearing will also state:

(1) When the jurisdiction of the presiding officer commences and terminates;

(2) The powers of the presiding officer; and

(3) Instructions to the presiding officer to certify promptly the completed hearing record to the Commission without preliminary decision or findings, unless the Commission directs otherwise.

§ 110.86 Conditions in a notice or order.

(a) A notice or order granting a hearing or permitting intervention may restrict irrelevant or duplicative testimony, or require common interests to be represented by a single spokesman.

(b) If a participant's interests do not extend to all the issues in the hearing, the notice or order may limit his participation accordingly.

(c) Unless authorized by the Commission, the granting of participation will not broaden the hearing issues.

§ 110.87 Authority of the Secretary.

The Secretary is authorized to prescribe time schedules and other procedural arrangements, when not covered by this part, and rule on related procedural requests.

§ 110.88 Filing and service.

(a) Hearing requests, intervention petitions, answers, replies, and accompanying documents shall be filed with the Commission by delivery or by mail or telegram to the Secretary, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Chief, Docketing and Service Branch.

(b) All filings and Commission notices and orders shall be served, as appropriate, upon the applicant; the Executive Legal Director, Nuclear Regulatory Commission, Washington, D.C. 20555; the Executive Secretary, Department of State, Washington, D.C. 20520; and participants, if any.

(c) Service is complete by:

(1) Delivering the paper to the person; or leaving it in his office with someone in charge; or, if there is no one in charge, leaving it in a conspicuous place in the office; or, if he has no office or it is closed, leaving it at his usual place of residence with some occupant of suitable age and discretion;

(2) Depositing it with a telegraph company, properly addressed and with charges prepaid;

(3) Depositing it in the United States mail, properly stamped and addressed; or

(4) Any other manner authorized by law, when service cannot be made as provided in paragraphs (1) through (3).

(d) Proof of service, stating the name and address of the person served and the manner and date of service, shall be shown, and may be made by:

(1) Written acknowledgement of the person served or his authorized representative; or

(2) The certificate or affidavit of the person making the service.

(e) The Commission may make special provisions for service when circumstances warrant.

§ 110.89 Computation of time.

(a) In computing time, the first day of a designated time period is not included and the last day is included. If the last day is a Saturday, Sunday, or legal holiday at the place where the required action is to be accomplished, the time period will end on the next day which is not a Saturday, Sunday, or legal holiday.

(b) In time periods of 7 days or less, Saturdays, Sundays, and holidays are not counted.

(c) Whenever an action is required within a prescribed period by a paper served pursuant to § 110.88, 3 days shall be added to the prescribed period if service is by mail.

(d) An interpretation of this section is contained in § 8.3 of this chapter.

§ 110.90 Commission consultations.

(a) The Commission may consult at any time on a license application with the staff, Executive Branch or other persons.

(b) Where the Commission seeks public comment on procedural questions involving grant or denial of intervention petitions, the views of the Commission staff and the Executive Branch on standing and a hearing as a matter of right will be expressed through their public responses, except to the extent that classified information is involved.

(c) The views of the Commission staff and the Executive Branch on whether a hearing should be held as a matter of discretion will be placed in the Public Document Room upon receipt by the Commissioners, except to the extent that:

(1) These views are classified; or

(2) Contain information submitted by the NRC staff which it has deter-

mined would adversely affect the common defense and security or the conduct of U.S. foreign policy if released at that time. The Commissioners will review any Commission staff decision to withhold its views.

The petitioners and the applicant will be notified at the time views on discretionary hearings are placed in the Public Document Room and provided a copy upon request.

Subpart J—Hearings

§ 110.100 Public hearings.

Hearings under this part will be public unless the Commission directs otherwise.

§ 110.101 Filing and service.

Filing and service of hearing documents shall be pursuant to § 110.88.

§ 110.102 Hearing docket.

For each hearing, the Secretary will maintain a docket which will include the hearing transcript, exhibits and all papers filed or issued pursuant to the hearing.

§ 110.103 Acceptance of hearing documents.

(a) Each document filed or issued shall be bound on the left side, clearly legible, and shall bear the docket number, license application number and hearing title.

(b) Each document shall be filed in one original and signed by the participant or his authorized representative, with his address and date of signature indicated. The signature is a representation that the document is submitted with full authority, the signator knows its contents and that, to the best of his knowledge, the statements made in it are true.

(c) A document not meeting the requirements of this section may be returned with an explanation for nonacceptance and, if so, will not be docketed.

§ 110.104 Presiding officer.

(a) The full Commission will ordinarily be the presiding officer at a hearing under this part. However, the Commission may provide in a hearing notice that one or more Commissioners, or any other person as provided by law, will preside.

(b) A participant may submit a written motion for the disqualification of any person presiding. The motion shall be supported by affidavit setting forth the alleged grounds for disqualification. If the presiding officer does not grant the motion or the person does not disqualify himself, the Commission will decide the matter.

(c) If any presiding officer designated by the Commission deems himself disqualified, he shall withdraw by notice on the record after notifying the Commission.

(d) If a presiding officer becomes unavailable, the Commission will designate a replacement.

(e) Any motion concerning the designation of a replacement presiding officer shall be made within 5 days after the designation.

(f) Unless otherwise ordered by the Commission, the jurisdiction of a presiding officer other than the Commission commences as designated in the hearing notice and terminates upon certification of the completed hearing record to the Commission, or when the presiding officer is disqualified.

§ 110.105 Responsibility and power of the presiding officer in an oral hearing.

(a) The presiding officer in any oral hearing shall conduct a fair hearing, develop a record that will contribute to informed decisionmaking, and, within the framework of the Commission's orders, have the power necessary to achieve these ends, including the power to:

(1) Take action to avoid unnecessary delay and maintain order;

(2) Dispose of procedural requests;

(3) Question participants and witnesses, and entertain suggestions as to questions which may be asked of participants and witnessess;

(4) Order consolidation of participants;

(5) Establish the order of presentation;

(6) Hold conferences before or during the hearing;

(7) Establish reasonable time limits;

(8) Limit the number of witnesses; and

(9) Strike or reject duplicative or irrelevant presentations.

(b) Where the Commission itself does not preside:

(1) The presiding officer may certify questions or refer rulings to the Commission for decision;

(2) Any hearing order may be modified by the Commission; and

(3) The presiding officer will certify the completed hearing record to the Commission, which may then issue its opinion on the hearing or provide that additional testimony be presented.

§ 110.106 Participation in a hearing.

(a) Unless otherwise limited by this part or by the Commission, participants in a hearing may submit:

(1) Initial and concluding written statements of position on the issues;

(2) Written questions to the presiding officer; and

(3) Written responses and rebuttal testimony to the statements of other participants.

(b) Participants in an oral hearing may also submit oral statements, questions, responses and rebuttal testimony.

(c) A participant in an import licensing hearing establishing that his interest may be affected, may be accorded additional procedural rights under Subpart G of Part 2 with respect to resolution of domestic factual issues regarding the public health, safety and environment, and the protection of the U.S. public against domestic theft, diversion or sabotage, to the extent that such issues are separable from the non-domestic issues associated with the license application.

§ 110.107 Presentation of testimony in an oral hearing.

(a) All direct testimony in an oral hearing shall be filed no later than 7 days before the hearing or as otherwise ordered or allowed.

(b) Written testimony will be received into evidence in exhibit form.

(c) Unless proscribed under § 110.86, members of groups which are designated as participants may testify in their individual capacities.

(d) Participants may present their own witnesses.

(e) Testimony by the Commission and the Executive Branch will be presented only by persons officially designated for that purpose.

(f) Participants and witneses will be questioned orally or in writing and only by the presiding officer. Questions may be addressed to individuals or to panels of participants or witnesses.

(g) The presiding officer may accept written testimony from a person unable to appear at the hearing, and may request him to respond to questions.

(h) No subpoenas will be granted at the request of participants for attendance and testimony of participants or witnesses or the production of evidence.

§ 110.108 Appearance in an oral hearing.

(a) A participant may appear in a hearing on his own behalf or be represented by an authorized representative.

(b) A person appearing shall file a written notice stating his name, address and telephone number, and if an authorized representative, the basis of his eligibility and the name and address of the participant on whose behalf he appears.

(c) A person may be excluded from a hearing for disorderly, dilatory or contemptuous conduct, provided he is informed of the grounds and given an opportunity to respond.

§ 110.109 Motions and requests.

(a) Motions and requests shall be addressed to the presiding officer, and, if written, also filed with the Secretary and served on other participants.

(b) Other participants may respond to the motion or request. Responses to written motions or requests shall be filed within 5 days after service.

(c) When the Commission does not preside, in response to a motion or request, the presiding officer may refer a ruling or certify a question to the Commission for decision and notify the participants.

(d) Unless otherwise ordered by the Commission, a motion or request, or the certification of a question or referral of a ruling, shall not stay or extend any aspect of the hearing.

§ 110.110 Default.

When a participant fails to act within a specified time limit, the presiding officer may consider him in default, issue an appropriate ruling and proceed without further notice to the defaulting participant.

§ 110.111 Waiver of a rule or regulation.

(a) A participant may petition that a Commission rule or regulation be waived with respect to the license application under consideration.

(b) The sole ground for a waiver shall be that, because of special circumstances concerning the subject of the hearing, application of a rule or regulation would not serve the purposes for which it was adopted.

(c) Waiver petitions shall specify why application of the rule or regulation would not serve the purposes for which it was adopted.

(d) Other participants may, within 10 days, file a response to a waiver petition.

(e) When the Commission does not preside, the presiding officer will certify the waiver petition to the Commission, which, in response, will grant or deny the waiver or direct any further proceedings.

(f) Regardless of whether a waiver is granted or denied, a separate petition for rulemaking may be filed pursuant to Subpart L of this part.

§ 110.112 Reporter and transcript for an oral hearing.

(a) A reporter designated by the Commission will record an oral hearing and prepare the official hearing transcript.

(b) Except for any classified portions, transcripts will be placed in the Public Document Room, and copies may be purchased from the Secretary, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

(c) Corrections of the official transcript may be made only as specified by the Secretary.

§ 110.113 Commission action.

(a) Upon completion of a hearing, the Commission will issue a written opinion including its decision on the license application, the reasons for the decision and any dissenting views.

(b) While the Commission will consider fully the hearing record, the licensing decision will be based on all relevant information, including information which might go beyond that in the hearing record.

(c) If the Commission relies upon information not in the hearing record in reaching its licensing decision, the hearing participants will be informed and, if not classified or otherwise privileged, the information will be placed in the Public Document Room and furnished to the participants.

(d) The Commission may issue a license before completion of a hearing if it finds that:

(1) The standards in § 110.42 are met;

(2) Prompt issuance is required in the public interest, particularly the common defense and security; and

(3) A participant establishing that his interest may be affected has been provided a fair opportunity to present his views.

(e) The Commission may:

(1) Defer any hearings;

(2) Consolidate applications for hearing;

(3) Narrow or broaden the hearing issues; and

(4) Take other action, as appropriate.

Subpart K—Special Procedures for Classified Information in Hearings

§ 110.120 Purpose and scope.

(a) This subpart contains special procedures concerning access to, and introduction of, classified information into hearings under this part.

(b) These procedures do not in any way apply to classified information exchanged between the Executive Branch and the Commission not introduced into a hearing. Such information will be declassified to the maximum extent feasible. The public statements of the Commisssion staff and Executive Branch will, to the extent consistent with classification requirements, reflect consideration of any such classified information.

§ 110.121 Security clearances and access to classified information.

(a) No person without a security clearance will have access to classified information.

(b) Only the Commission will act upon an application for access to classified information.

(c) To the extent practicable, applications for access to classified information shall describe the information to which access is desired and its level of classification (confidential, secret or other); the reasons for requesting access; the names of individuals for whom access is requested; and the reasons why access is requested for those individuals.

(d) The Commission will consider requests for appropriate security clearances in reasonable numbers; conduct its review and grant or deny these in accordance with Part 10 of this chapter; and make a reasonable charge to cover costs.

(e) The Commission will not grant security clearances for access to classified information, unless it determines that the available unclassified information is inadequate on the subject matter involved.

(f) When an application demonstrates that access to classified information not introduced into a hearing may be needed to prepare a participant's position on the hearing issues, the Commission may issue an order granting access to this information to the participant, his authorized representative or other persons. Access will be subject to the conditions in paragraphs (e) and (j) and will not be granted unless required security clearances have been obtained.

(g) Once classified information has been introduced into a hearing, the Commission will grant access to a participant, his authorized representative or such other persons as the Commission determines may be needed by the participant to prepare his position on the hearing issues. Access will be subject to the conditions in paragraphs (e) and (j) and will not be granted unless required security clearances have been obtained.

(h) For good cause, the Commission may postpone action upon an application for access to classified information.

(i) The Commission will grant access to classified information only up to the level for which the persons described in paragraphs (f) and (g) of this section are cleared and only upon an adequate commitment by them not to disclose such information subject to penalties as provided by law.

(j) The Commission will not in any circumstances grant access to classified information:

(1) Unless it determines that the grant is not inimical to the common defense and security; and

(2) Which it has received from another Government agency, without the prior consent of the originating agency.

(k) Upon completion of a hearing, the Commission will terminate all security clearances granted pursuant to the hearing and may require the disposal of classified information to which access has been granted or the observance of other procedures to safeguard this information.

§ 110.122 Classification assistance.

On the request of any hearing participant or the presiding officer (if other than the Commission), the Commission will designate a representative to advise and assist the presiding officer or the participants with respect to security classification of information

and the protective requirements to be observed.

§ 110.123 Notice of intent to introduce classified information.

(a) A participant shall seek the required security clearances, where necessary, and file with the Secretary a notice of intent to introduce classified information into a hearing at the earliest possible time after the notice of hearing.

(b) If a participant has not filed a notice of intent in accordance with this section, he may introduce classified information only if he gives to the other participants and the Commission prompt written notice of intent and only as permitted by the Commission when it determines that the public interest will not be prejudiced.

(c) The notice of intent shall be unclassified and, to the extent consistent with classification requirements, state:

(1) The subject matter of the classified information, which it is anticipated will be involved;

(2) The highest level of classification of the information (confidential, secret or other);

(3) When it is anticipated that the information would be introduced; and

(4) The relevance and materiality of the information to the hearing issues.

§ 110.124 Rearrangement or suspension of a hearing.

When a participant gives notice of intent to introduce classified information and other participants do not have the required security clearances, subject to § 110.121, the Commission may:

(a) Suspend or rearrange the normal order of the hearing to give other participants an opportunity to obtain the required security clearances with minimum delay in the conduct of the hearing; or

(b) Take such other action as it determines to be in the public interest.

§ 110.125 Unclassified statements required.

(a) It is the obligation of hearing participants to introduce information in unclassified form wherever possible, and to declassify, to the maximum extent feasible, any classified information introduced into the hearing. This obligation rests on each participant whether or not any other participant has the required security clearances.

(b) When classified information is offered for introduction into a hearing:

(1) The participant offering it shall, to the extent consistent with classification requirements, submit to the presiding officer and other participants an unclassified statement describing the substance of the classified information as accurately and completely as possible;

(2) In accordance with procedures agreed upon by the participants or prescribed by the presiding officer, and after notice to all participants an opportunity to be heard on the notice, the presiding officer will determine whether an unclassified statement may be substituted for the classified information in the hearing record without prejudice to the interest of any participant or the public;

(3) If the Commission determines that the unclassified statement (together with such unclassified modifications as it finds are necessary or appropriate to protect the interest of other participants and the public) adequately sets forth information in the classified matter which is relevant and material to the issues in the hearing, it will direct that the classified matter be excluded from the record of the hearing; and

(4) The Commission may postpone any of the procedures in this section until all other evidence has been received. However, a participant shall not postpone service of the unclassified statement required in this section.

§ 110.126 Protection of classified information.

Nothing in this subpart shall relieve any person from safeguarding classified information as required by law and the rules, regulations or orders of any Government agency.

Subpart L—Rulemaking

§ 110.130 Initiation of rulemaking.

The Commission may initiate action to amend the regulations in this part on its own initiative or in response to a petition.

§ 110.131 Petition for rulemaking.

(a) A petition for rulemaking shall be addressed to the Secretary, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Chief, Docketing and Service Branch.

(b) The petition shall state the basis for the rulemaking.

(c) The petition may request the Commission to suspend all or part of any licensing proceeding under this part pending disposition of the petition.

(d) The Secretary will assign a docket number to the petition, place a copy in the Public Document Room and notice its receipt in the FEDERAL REGISTER.

(e) Publication may be limited by order of the Commission to the extent required by Section 181 of the Atomic Energy Act.

§ 110.132 Commission action on a petition.

(a) The Commission may accept or deny the petition.

(b) If the petition is accepted, a notice of proposed rulemaking or a notice of adoption will be published in the FEDERAL REGISTER.

(c) If the petition is denied, the petitioner will be informed of the grounds.

(d) Commission action on each petition will normally follow, whenever appropriate, receipt and evaluation of Executive Branch views.

(e) The Commission, in exercising the discretion authorized by Section 4(a)(1) of the Administrative Procedure Act for rulemaking on this part, will decide what, if any, public rulemaking procedures will be followed.

§ 110.133 Notice of proposed rulemaking.

(a) When the Commission proposes to amend the regulations in this part, it will normally publish a notice of proposed rulemaking in the FEDERAL REGISTER.

(b) A notice of proposed rulemaking will include:

(1) The authority for the proposed rule;

(2) The substance and purpose of the proposed rule;

(3) Directions for public participation;

(4) The time and place of any public hearing; and

(5) If a hearing is to be held by other than the Commission, designation of a presiding officer and instructions for the conduct of the hearing.

(c) A notice of proposed rulemaking will not be published less than 15 days before any hearing unless the Commission for good cause provides otherwise in the notice.

§ 110.134 Public participation.

(a) The Commission may hold an oral hearing on a proposed rulemaking or permit any person to participate in a rulemaking proceeding through the submission of written comments.

(b) When it is in the public interest, public rulemaking procedures may be omitted and a notice of adoption published pursuant to § 110.135.

§ 110.135 Notice of adoption of a final rule.

(a) Upon approval of an amendment, the Commission will publish in the FEDERAL REGISTER a notice of adoption which includes a statement of purpose, reasons for adoption, effective date and, where appropriate, any significant variations from the amendment as initially proposed in any notice of proposed rulemaking.

(b) The effective date of adoption will normally be no earlier than 30 days after publication of the notice of adoption, unless the Commission for good cause provides otherwise in the notice.

(Sec. 161, as amended, Pub. L. 83-703, 68 Stat. 948 (42 U.S.C. 2201); Sec. 201, as amended, Pub. L. 93-438, 88 Stat. 1243 (42 U.S.C. 5841).)

Dated at Washington, D.C. this 7th day of February 1978.

For the Nuclear Regulatory Commission.

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc. 78-4348 Filed 2-16-78; 8:45 am]

[4810-22]

Title 19—Customs Duties

CHAPTER I—U.S. CUSTOMS SERVICE, DEPARTMENT OF THE TREASURY

[T.D. 78-61]

PART 153—ANTIDUMPING

Railway Track Maintenance Equipment, Consisting of Ballast Regulators and Tampers Only, From Austria

AGENCY: U.S. Treasury Department.

ACTION: Finding of dumping.

SUMMARY: This notice is to inform the public that separate investigations conducted under the Antidumping Act, 1921, as amended, by the U.S. Treasury Department and the U.S. International Trade Commission, respectively, have resulted in determinations that railway track maintenance equipment, consisting of ballast regulators and tampers only, from Austria is being, or is likely to be, sold at less than fair value and that those sales are injuring, or are likely to injure, an industry in the United States. On this basis, a finding of dumping is being issued and, generally, all unappraised entries of this merchandise will be liable for the possible assessment of special dumping duties. As "railway track maintenance equipment" for purposes of this notice consists only of tamping machines and ballast regulators, any other types of machinery used in maintenance of railway track are excluded from this finding.

EFFECTIVE DATE: February 17, 1978.

FOR FURTHER INFORMATION CONTACT:

Barbara J. Victor, U.S. Customs Service, Office of Operations, Duty Assessment Division, Technical Branch, 1301 Constitution Avenue NW., Washington, D.C. 20229, 202-566-5492.

SUPPLEMENTARY INFORMATION: Section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C 160(a)), gives the Secretary of the Treasury responsibility for determination of sales at less than fair value. Pursuant to this authority the Secretary of the Treasury has determined that railway track maintenance equipment from Austria is being, or is likely to be, sold at less than fair value within the meaning of section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a), published in the FEDERAL REGISTER of August 16, 1977 (42 FR 41339-40)).

Section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C 160(a)), gives the United States International Trade Commission responsibility for determination of injury or likelihood of injury. The United States International Trade Commission has determined, and on Novembver 11, 1977, it notified the Secretary of the Treasury, that less than fair value imports of railway track maintenance equipment, consisting of ballast regulators and tampers only, from Austria are injuring an industry in the United States. (Published in the FEDERAL REGISTER of November 17, 1977 (42 FR 59430-32)).

On behalf of the Secretary of the Treasury, I hereby make public these determinations, which constitute a finding of dumping with respect to railway track maintenance equipment, consisting of ballast regulators and tampers only, from Austria.

Section 153.46 of the Customs Regulations (19 CFR 153.46) is amended by adding the following to the list of findings of dumping currently in effect:

Merchandise	Country	T.D.
Railway track maintenance equipment consisting of ballast regulators and tampers only	Austria.....	78-61

(Secs. 201, 407, 42 Stat. 11, as amended, 18 (19 U.S.C. 160, 173).)

ROBERT H. MUNDHEIM,
General Counsel of the Treasury.

FEBRUARY 13, 1978.

[FR Doc. 78-4366 Filed 2-16-78; 8:45 am]

[4110-03]

Title 21—Food and Drugs

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

SUBCHAPTER A—GENERAL

PART 14—PUBLIC HEARING BEFORE A PUBLIC ADVISORY COMMITTEE

Panel on Review of Skin Test Antigens; Termination

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: Pursuant to § 14.55 (21 CFR 14.55) of the public advisory committee procedures, the Food and Drug Administration announces the termination of the Panel on Review of Skin Test Antigens and amends the regulations to delete it from the list of standing advisory committees. The panel was terminated on August 24, 1977, because it was no longer needed.

EFFECTIVE DATE: February 17, 1978.

FOR FURTHER INFORMATION CONTACT:

Clay Sisk, Bureau of Biologics (HFB-5), Food and Drug Administration, Department of Health, Education, and Welfare, 8800 Rockville Pike, Bethesda, Md. 20014, 301-443-5455.

SUPPLEMENTARY INFORMATION: The panel's functions were to review the data and information submitted and to prepare a report on the safety, and efficacy of biological products containing skin test antigens. The conclusions and recommendations in the panel's report was published in the FEDERAL REGISTER of September 30, 1977 (42 FR 52674).

Accordingly, the usefulness of the panel had been served and the panel was no longer needed. On August 24, 1977, the charter of this panel expired and renewal will not be requested of the Secretary of Health, Education, and Welfare.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Part 14 is amended in § 14.100 *List of standing advisory committees* by deleting paragraph (b)(1)(iv) and marking it reserved.

Effective date: Since this is a technical conforming amendment to Part 14, the Commissioner finds that there is good cause for the rule to be effective immediately February 17, 1978.

Dated: February 13, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc. 78-4368 Filed 2-16-78; 8:45 am]

[4110-03]

[Docket No. 77C-0208]

PART 73—LISTING OF COLOR ADDITIVES EXEMPT FROM CERTIFICATION

PART 81—GENERAL SPECIFICATIONS AND GENERAL RESTRICTIONS FOR PROVISIONAL COLOR ADDITIVES FOR USE IN FOODS, DRUGS, AND COSMETICS

Ferric Ammonium Ferrocyanide; Confirmation of Effective Date

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document confirms the effective date of August 30, 1977, of a regulation on the use of ferric am-

monium ferrocyanide in externally applied drugs and cosmetics, including those drugs and cosmetics intended for use in the area of the eye. The specifications for the color additive are being revised in response to objections containing data on levels of nickel and cobalt.

DATE: Effective date confirmed: August 30, 1977. Revision effective date: February 17, 1978.

FOR FURTHER INFORMATION CONTACT:

Gerad L. McCowin, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, D.C. 20204, 202-472-5740.

SUPPLEMENTARY INFORMATION: A regulation published in the FEDERAL REGISTER of July 29, 1977 (42 FR 38562) added §§ 73.1298 and 73.2298 (21 CFR 73.1298 and 73.2298) to Subparts B and C, respectively, of Part 73 (21 CFR Part 73) to provide for the safe use of ferric ammonium ferrocyanide in externally applied drugs and cosmetics, including those drugs and cosmetics intended for use in the area of the eye. The regulation also amended § 81.1(g) (21 CFR 81.1(g)), by deleting "ferric ferrocyanide (iron blue)" from the provisionally listed colors.

Three objections to the regulation were received. None of the objections requested a hearing.

One objection was filed by a manufacturer. This objection was to the following aspects of the published regulation:

1. The identity given for this color additive, presented in § 73.1298(a)(1).
2. The change in the name from ferric ferrocyanide to ferric ammonium ferrocyanide wherever given in this order, including the cosmetic labeling presented in the second column of page 38562 of the order.
3. The last specification given in the order, presented in § 73.1298(b), giving the total iron (Fe) in the range of 33 to 37 percent.

These objections arise because the manufacturer's color additive, ferric ferrocyanide (iron blue), does not correspond to the ferric ammonium ferrocyanide described in the regulation. The manufacturer stated that in 1972 it began production and marketing of ferric ferrocyanide (iron blue) for use as a color additive in cosmetics. The manufacturer stated that it was guided by the continued appearance of the name ferric ferrocyanide (iron blue) on the provisional list of colors for use in externally applied cosmetics (§ 81.1(g)). The manufacturer documents its claim of identity of the color additive with references to the listings for ferric ferrocyanide in the "Kirk-Othmer Encyclopedia of Chemical Technology" (2d ed., vol. 12, Interscience 1967, A. Standen, ed., pp. 33-35 and in the "Merck Index," 8th ed., 1968, p. 452). Because this color additive does not correspond to the color additive described in the regulation, the objector asked that the published identity, name, and specifications be changed, or alternatively that ferric ferrocyanide be listed as a separate color additive, either permanently or provisionally.

The Commissioner of Food and Drugs has evaluated the information submitted by the manufacturer and has determined that the color additive described by the manufacturer is distinct from ferric ammonium ferrocyanide, which is described in the July 29 regulation. The petition that resulted in the listing of ferric ammonium ferrocyanide (CAP 8C0082) contained data that supported the identity of the color additive as described in the regulation of July 29, 1977. Manufacturers of ferric ammonium ferrocyanide were requested by the petitioner, i.e., the Cosmetic, Toiletry and Fragrance Association, Washington, D.C., to submit information relating to the identity and manufacture of this color additive in 1970. Although the Kirk-Othmer Encyclopedia of Chemical Technology does indicate that the chemistry and identity of the iron blues are ambiguous and that current techniques indicate that all the various iron blues have essentially the same structure, it also states that: "In the manufacture of blues the reaction is carried out in the presence of a large amount of ammonium sulfate, and the commercial products contain ammonium ion partially or entirely replacing the alkali metal." It describes the present commercial method of manufacturing the color. The product manufactured by this process, which includes the use of ammonium sulfate, will be mainly ferric ammonium ferrocyanide along with lesser amounts of ferric sodium ferrocyanide and ferric potassium ferrocyanide. This is the compound described in the petition and which was the subject of the listing regulations for ferric ammonium ferrocyanide, §§ 73.1298 and 73.2298, that published in the FEDERAL REGISTER of July 29, 1977.

Because establishing safe conditions of use is the primary consideration in regulating color additives, it is imperative that the color additive be adequately identified so that it can be uniformly manufactured, and be identical with samples used to establish the safety profile. It is the manufacturer's burden to establish that the color additive it produces is in compliance with the material listed in the regulation. Reliance solely on the name of the color additive to identify it is insufficient. The entries for ferric ferrocyanide in the "Merck Index" and the "Colour Index" do not mention the presence of ammonium sulfate in the manufacturing process, nor do they list the use of ferric ferrocyanide as a color additive in cosmetics.

The manufacturer did not submit data on its color as part of the color additive petition for approval of ferric ammonium ferrocyanide for use in cosmetics. Instead, the data were submitted after publication of the regulation that "permanently" listed ferric ammonium ferrocyanide for use in externally applied drugs and cosmetics, including those intended for use in the area of the eye. The regulation simultaneously removed ferric ferrocyanide (iron blue) from the provisional list. Accordingly, the Commissioner concludes that the manufacturer has no basis for any of its objections, and the regulation of July 29, 1977 became effective August 30, 1977.

In lieu of amending the regulation, the manufacturer requested that ferric ferrocyanide be continued on the provisional list until safe conditions of use could be established for it. One condition of the provisional listing of a color for any use is that it have a history of commercial use as a color additive prior to the Color Additive Amendments of 1960 to the Federal Food, Drug, and Cosmetic Act. The manufacturer, however, has not submitted data to establish this prior history of use. The Commissioner concludes that it will be necessary for the manufacturer to submit a new color additive petition proposing amendment of the color additive regulations to provide for its particular additive. Before the Commissioner can consider provisional listing of ferric ferrocyanide as described by the objector, the objector will have to submit data showing it was marketed prior to July 12, 1960.

A letter was received after expiration of the objection period. This letter from another manufacturer is similar to that discussed above as the first objection. This manufacturer's color additive also appears to be different from ferric ammonium ferrocyanide as described in CAP 8C0082. As with the first objection, the manufacturer should have presented data to FDA on its color additive during the petition review process either as part of the above-named petition or as a separate petition, not after publication of the regulation.

On this basis, the Commissioner judges that this manufacturer should submit a new color additive petition proposing amendment of the color additive regulations to provide for its particular additive, and the necessary data as described above to support continued provisional listing of ferric ferroyanide.

A third objection was received from the petitioner, i.e., the Cosmetic, Toiletry and Fragrance Association. This

objection concerns the restrictions for nickel and cobalt listed under § 73.1298(b). The petitioner states that the specifications are unnecessarily stringent, since their main purpose is to ensure that other grades of ferric ammonium ferrocyanide, such as the alkali-resistant grade, are not inadvertently used. The manufacturers cannot meet the 30 ppm levels established in the specifications in § 73.1298, but could meet a 60 ppm specification, which would still be sufficient to differentiate between the regulated color additive and the alkali-resistant grade of ferric ammonium ferrocyanide.

The Commissioner has evaluated this objection, along with new information that shows that the small amounts of nickel and cobalt present in the color are most likely strongly complexed in the color additive. Because the complexed nickel and cobalt would not be biologically available in externally applied drugs or cosmetics, the Commissioner concludes that the tolerances for nickel and cobalt may be safely increased to 60 ppm each. The regulations set forth below amend the tolerances for nickel and for cobalt to 60 ppm.

The Cosmetic, Toiletry, and Fragrance Association also pointed out an error in the listing of ferric ammonium ferrocyanide under § 73.2298(b) "Uses and restrictions" as it appeared in the FEDERAL REGISTER of July 29, 1977 (42 FR 38562). Although the uses of ferric ammonium ferrocyanide as given in the summary and preamble of the final order were "externally applied drugs and cosmetics, including those drugs and cosmetics intended for use in the area of the eye," § 73.2298(b) inadvertently lists "ferric ammonium ferrocyanide as safe for use in coloring cosmetics generally * * *." Section 73.2298(b) is amended as set forth below to correct this error.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 706 (b), (c), and (d), 74 Stat. 399-403 (21 U.S.C. 376 (b), (c), and (d))) and under authority delegated to the Commissioner (21 CFR 5.1): *It is ordered*, That the regulation adding §§ 73.1298 and 73.2298, and amending § 81.1(g) as published in the FEDERAL REGISTER of July 29, 1977, became effective August 30, 1977: *It is further ordered*, That Part 73 is amended:

1. In the listing in § 73.1298(b) by changing the tolerances for nickel and cobalt to read as follows:

§ 73.1298 Ferric ammonium ferrocyanide.

* * * * *

(b) * * *

* * * * *

Nickel (as Ni), not more than 60 parts per million.

Cobalt (as Co), not more than 60 parts per million.

* * * * *

2. In § 73.2298, by revising paragraph (b) to read as follows:

§ 73.2298 Ferric ammonium ferrocyanide.

* * * * *

(b) *Uses and restrictions.* Ferric ammonium ferrocyanide is safe for use in coloring externally applied cosmetics, including cosmetics applied to the area of the eye, in amounts consistent with good manufacturing practice.

* * * * *

Effective dates. (1) Effective date confirmed: August 30, 1977; (2) the amendments set forth above are effective February 17, 1978.

(Sec. 706 (b), (c), and (d), 74 Stat. 399-403 (21 U.S.C. 376 (b), (c), (d)).)

Dated: February 6, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc. 78-4137 Filed 2-16-78; 8:45 am]

[4110-03]

SUBCHAPTER C—DRUGS: GENERAL

[Docket No. 77N-0411]

PART 291—DRUGS USED FOR TREATMENT OF NARCOTIC ADDICTS

Relationship Between Federally Operated Methadone Treatment Programs and State Methadone Authorities

AGENCIES: Food and Drug Administration and the National Institute on Drug Abuse.

ACTION: Final rule.

SUMMARY: This rule amends the methadone regulations to clarify the role of State methadone authorities in federally operated methadone treatment programs. Questions have arisen whether, under the methadone regulations, State officials have authority to inspect or approve methadone treatment programs operated by the Federal Government or to require that Federal authorities submit program reports to State authorities. This action exempts methadone treatment programs operated by the Federal Government from regulation by a State authority and announces that Federal agencies will voluntarily cooperate with State authorities by permitting inspection and by sending a copy of pertinent reports to such State authorities.

EFFECTIVE DATE: March 20, 1978.

FOR FURTHER INFORMATION CONTACT:

Buddy F. Stonecipher, Bureau of Drugs (HFD-340), Food and Drug Administration, Department of Health, and Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3414.

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of November 29, 1973 (38 FR 32944), the Commissioner of Food and Drugs proposed to amend § 291.505 Conditions for use of methadone (21CFR 291.505, formerly § 310.505 prior to recodification published in the FEDERAL REGISTER of September 16, 1977 (42 FR 46698)) to state that Federal agencies have agreed to cooperate voluntarily with State agencies by granting permission on an informal basis for designated State representatives to visit Federal facilities and by furnishing the State authority a copy of Federal reports, including the reports required under § 291.505. Interested persons were invited to comment on the proposed rule within 60 days.

The Commissioner advises that the Food and Drug Administration (FDA) and the National Institute on Drug Abuse (NIDA) have agreed that after April 29, 1976 all future regulations pertaining to narcotic treatment standards will be issued jointly. This agreement resulted from the Secretary of Health, Education, and Welfare's delegating his authority under section 4 of Title I of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (section 4, Pub. L. 91-513). This section directs the Secretary to determine the appropriate methods of professional practice in the medical treatment of the narcotic addiction of various classes of narcotic addicts. The Secretary's authority under this section to determine the safety and effectiveness of drugs or to approve new drugs to be used in the treatment of naroctic addicts has been delegated to the Commissioner of Food and Drugs (21 CFR 5.1). The Secretary's authority under this section relating to the determination of the appropriate methods of professional practice in the treatment of narcotic addicts has been delegated to the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, who has redelegated his authority to the Director of NIDA. Because of the agreement between FDA and NIDA, this final regulation is being issued jointly by the Commissioner of FDA and the Director of NIDA.

Two comments on the proposed rule are on file with the Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, Md. 20857. A summary of these comments and the conclusions of the Commissioner and the Director are as follows:

1. The director of a privately operated methadone program neither op-

posed nor supported the proposed rule, but suggested that FDA amend the methadone regulations to establish qualification standards for personnel of both State and Federal methadone authorities.

This suggestion is beyond the scope of the proposed rule. The Commissioner recognizes his responsibility and authority for establishing standards for FDA employees, including those involved in methadone activities. Although State agencies have the primary responsibility for establishing standards for their employees, FDA has conducted a training course for State methadone authority investigators who were under contract to conduct inspections of methadone programs for FDA. During 1975, FDA conducted three regional training courses for FDA investigators who inspect methadone treatment programs. These courses, held in Chicago, New York City, and San Francisco, were open to all State investigators, notwithstanding the existence of a contractual relationship with FDA. Many FDA and State authority investigators took advantage of this training opportunity. The agency plans to conduct additional regional training courses that will be open to personnel from methadone treatment programs as well as to State and Federal investigators.

2. The Office of General Counsel of the Veterans' Administration commented that although the preamble to the proposed rule specifically stated that State officials have no legal authority to inspect, approve, or require reports from Federal methadone programs, the proposed regulation merely implied that such legal authority did not exist. The Veterans' Administration suggested that the Commissioner slightly modify the final rule to clarify this issue.

The Commissioner believes that the language in the preamble to the proposed rule, read together with the text of the proposed rule, sufficiently informed the public that he was proposing to make the exemption of Federal programs explicit and to pledge simultaneously the cooperation of these programs with State regulatory authorities. However, the Commissioner agrees with the suggestion that the text of the final rule should clearly state that methadone treatment programs operated by the Federal Government are exempt from regulation by State authorities. The final rule is amended accordingly.

The Food and Drug Administration and the National Institute on Drug Abuse have determined that this document does not contain an agency action covered by § 25.1(b) (21 CFR 25.1(b)), and consideration by the agencies of the need for preparing an environmental impact statement is not required.

Therefore, under the Federal, Food, Drug, and Cosmetic Act (secs. 505, 701(a), 52 Stat. 1052-1053 as amended, 1055 (21 U.S.C. 355, 371(a))), the Comprehensive Drug Abuse Prevention and Control Act of 1970 (sec. 4, 84 Stat. 1241 (42 U.S.C. 257(a)), and under authority delegated to the Administrator, Alcohol, Drug Abuse, and Mental Health Administration and redelegated to the Director of NIDA (38 FR 27315-27316, October 2, 1973) and the Commissioner of Food and Drugs (21 CFR 5.1), Part 291 is amended in § 291.505 by adding new paragraph (b)(1)(vi) to read as follows:

§ 291.505 Conditions for use of methadone

* * * * *

(b) * * *

(1) * * *

(vi) *Exemption of Federal programs.* The provisions of this section requiring approval (or permitting disapproval or revocation of approval) by the State authority, compliance with requirements imposed by State law, or the submission of applications or reports required by the State authority do not apply to programs operated directly by the Veterans' Administration or by any other department or agency of the United States. Federal agencies operating methadone treatment programs have agreed to cooperate voluntarily with State agencies by granting permission on an informal basis for designated State representatives to visit Federal methadone treatment programs and by furnishing a copy of Federal reports to the State authority, including the reports required under this regulation.

* * * * *

Effective date. This regulation shall be effective March 20, 1978.

(Secs. 505, 701(a), 52 Stat. 1052-1053, as amended, 1055 (21 U.S.C. 355, 371(a)); sec. 4, 84 Stat. 1241 (42 U.S.C. 257(a)).)

NOTE.—This final order was proposed prior to Executive Order 11821, requiring agencies in the executive branch to review regulatory and legislative proposals they initiate for economic impact, and so does not require economic impact review.

Dated: Feburary 1, 1978.

DONALD KENNEDY,
Commissioner of Food and Drugs.

Dated: February 8, 1978.

ROBERT L. DUPONT,
Director, National Institute on Drug Abuse.

[FR Doc. 78-4127 Filed 2-16-78; 8:45 am]

[1505-01]

SUBCHAPTER E—ANIMAL DRUGS, FEEDS, AND RELATED PRODUCTS

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

Diethylcarbamazine Citrate Tablets

Correction

In FR Doc. 87-2826, appearing on page 4601 in the issue of Friday, February 3, 1978, make the following changes:

1. In the first column, the word which runs from the fourth to the fifth line of the "SUMMARY" paragraph should read, "anthelmintic".

2. In the second column, the first word in the last line of § 520.622a(a)(1) should read, "diethylcarbamazine" and the third complete word in the sixth to last line of § 520.622a(a)(3)(iii) should read, "activity".

[4110-03]

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

Diethylcarbamazine Citrate Chewable Tablets

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The animal drug regulations are amended to reflect approval for a new animal drug application (NADA) providing for use of an anthelmintic tablet as an aid in treatment of ascarids in dogs and cats and prevention of heartworm disease in dogs. The application was filed by Philips Roxane, Inc.

EFFECTIVE DATE: February 17, 1978.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: Philips Roxane, Inc., St. Joseph, Mo. 64502, filed an NADA (108-863V) providing for use of diethylcarbamazine citrate chewable tablets as an aid in treatment of ascarid (*T. canis* and *T. leonina*) infections in dogs and cats and prevention of heartworm disease (*Dirofilaria immitis*) in dogs.

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)), a summary of the safety and effectiveness data and information submitted to support the approval of this applica-

tion is released publicly. The summary is available for public examination at the office of the Hearing Clerk (HFC-20), Rm. 4-65, 5600 Fishers Lane, Rockville, Md. 20857, between 9 a.m. and 4 p.m., Monday through Friday, except on Federal holidays.

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 520 is amended by revising § 520.622c the existing text to read as follows:

§ 520.622c Diethylcarbamazine citrate chewable tablets.

(a) *Sponsors.* (1) See No. 000010 in § 510.600(c) of this chapter for use as in paragraph (c)(2) (i) and (iii) of this section.

(2) See No. 011519 for use as in paragraph (c)(2) (i) and (ii) of this section.

(b) *Specifications.* (1) For 000010: 30 or 120 milligrams diethylcarbamazine citrate per tablet.

(2) For 011519: 60 or 180 milligrams of the drug per tablet.

(c) *Conditions of use*—(1) *Amount.*—3 milligrams per pound of body weight per day for prevention of heartworm disease; 25 to 50 milligrams per pound of body weight for treatment of ascarid infections.

(2) *Indications for use.* (i) For prevention of infection with *Dirofilaria immitis* (heartworm disease) in dogs.

(ii) As an aid in treatment of ascarid (*Toxocara canis* and *Toxascaris leonina*) infections in dogs.

(iii) As an aid in treatment of ascarid (*Toxocara canis* and *Toxascaris leonina*) infections in dogs and cats.

(3) *Limitation.* Tablets are administered orally or pulverized and given in the feed. For treatment of ascarid infections, a repeat dose should be given in 10 to 20 days to remove immature worms which may enter the intestine from the lungs after the first dose. Dogs with established heartworm infections should not receive the drug until they have been converted to a negative status by the use of adulticidal and microfilaricidal drugs. Inadvertent administration to heartworm-infected dogs may cause adverse reactions due to pulmonary occlusion. Overdosage may cause emesis. For prevention of heartworm disease in heartworm-endemic areas, administration of the drug should start at the beginning of mosquito activity and be continued daily throughout the mosquito season and for approximately a month thereafter. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Effective date. February 17, 1978.

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

Dated: February 8, 1978.

C. D. VAN HOUWELING,
Director, Bureau of Veterinary Medicine.

[FR Doc. 78-4206 Filed 2-16-78; 8:45 am]

[4110-03]

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

Piperazine Phosphate Capsules

AGENCY Food and Drug Administration

ACTION: Final rule.

SUMMARY: The animal drug regulations are amended to reflect approval of a new animal drug application filed by Burroughs Wellcome Co., providing for use of a piperazine phosphate capsule as an anthelmintic for the treatment of dogs and cats.

EFFECTIVE DATE: February 17, 1978.

FOR FURTHER INFORMATION CONTACT:

Henry C. Hewitt, Bureau of Veterinary Medicine (HFV-12), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3430.

SUPPLEMENTARY INFORMATION: Burroughs Wellcome Co., 3030 Cornwallis Road, Research Triangle Park, N.C. 27709, filed a new animal drug application (NADA) (91-260V) providing for 120-, 300-, and 600-milligram piperazine phosphate capsules to be used as an anthelmintic for the treatment of dogs, cats, kittens, and puppies.

Piperazine, as the adipate, sulfate, monohydrochloride, and dihydrochloride, was the subject of an NAS/NRC review, published in the FEDERAL REGISTER of February 14, 1969 (34 FR 2213). In this publication, the Academy concluded, and FDA concurred, that the products are effective in dogs and cats for the treatment of infections of *Toxocara canis* and *Toxascaris leonina*, when administered at the rate of 20 to 30 milligrams of piperazine per pound of body weight. In view of the NAS/NRC evaluation for *Toxocara spp.*, FDA has also evaluated the use of piperazine in the treatment of cats for *Toxocara mystax* infections. Based on data and information available, FDA concludes that piperazine is also effective for the treatment of *Toxocara mystax* infections in cats.

The NAS/NRC review was published to inform holders of NADA's as to the findings of the Academy and FDA, and to inform all interested persons that such articles may be marketed providing they are the subject of approved NADA's or otherwise comply with the requirements of the Federal Food, Drug, and Cosmetic Act. NADA's submitted for piperazine drugs, which reflect those conditions of use which were NAS/NRC approved, do not require efficacy data as specified by § 514.1(b)(8)(ii) or § 514.111(a)(5)(vi) of the animal drug regulations. In lieu of such data, approval may require bioequivalency or similar data as suggested in the guideline for submitting NADA's for NAS/NRC-reviewed generic drugs. (The guideline is available with the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.) Those conditions of use are identified in the regulation by a footnote.

In accordance with the freedom of information regulations and § 514.11 (e)(2)(ii) (21 CFR 514.11(e)(2)(ii)) of the animal drug regulations, a summary of safety and effectiveness data and information submitted to support the approval of this application is released publicly. The summary is available for public examination at the office of the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, from 9 a.m. to 4 p.m., Monday through Friday, except on Federal holidays.

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 520 is amended by adding new § 520.1804 to read as follows:

§ 520.1804 Piperazine phosphate capsules.

(a) *Specifications.* Each capsule contains 120, 300, or 600 milligrams of piperazine phosphate monohydrate.

(b) *Sponsor.* See No. 000081 in § 510.600(c) of this chapter.

(c) *Conditions of use*—(1) *Amount.* 60 milligrams of piperazine phosphate monohydrate per pound of body weight.[1]

(2) *Indications for use*—(1) *Dogs.* It is used for the removal of large roundworms (ascarids) *Toxocara canis* and *Toxascaris leonina.*[1]

(ii) *Cats.* It is used for the removal of large roundworms (ascarids) *Toxocara mystax* and *Toxascaris leonina.*[1]

(3) *Limitations.* Administer in animal's food or milk. For animals up to 1 year of age administer every 2 or 3 months; for animals over 1 year old, administer periodically as necessary. Consult your veterinarian for assistance in the diagnosis, treatment, and control of parasitism.[1]

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[1] These conditions are NAS/NRC reviewed and deemed effective. Applications for these uses need not include effectiveness data as specified by § 514.111 of this chapter, but may require bioequivalency and safety information.

EFFECTIVE DATE. This regulation becomes effective February 17, 1978.

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

Dated: February 8, 1978.

C. D. VAN HOUWELING,
Director, Bureau of Veterinary, Medicine.

[FR Doc. 78-4207 Filed 2-16-78; 8:45 am]

[4110-03]

[Docket No. 75N-0374]

PART 540—PENICILLIN ANTIBIOTIC DRUGS

Penicillin Streptomycin Powder; Penicillin Dihydrostreptomycin Powder; Revocation of Antibiotic Certification Provision

AGENCY: Food and Drug Administration (FDA).

ACTION: Rule.

SUMMARY: The agency is revoking a regulation (21 CFR 540.174b) that provides for certification of certain animal drugs containing penicillin-streptomycin whose approvals are being withdrawn in a corresponding document (FDA Docket No. 75N-0373), published in the "Notices" section in this issue of the FEDERAL REGISTER.

DATES: Effective February 17, 1978.

FOR FURTHER INFORMATION CONTACT:

Donald Gable, Office of the Associate Director for Scientific Evaluation (HFV-100), Bureau of Veterinary Medicine, Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4313.

SUPPLEMENTARY INFORMATION: The Director of the Bureau of Veterinary Medicine issued a notice of opportunity for hearing, published in the FEDERAL REGISTER of July 9, 1976 (41 FR 28340), proposing to withdraw the new animal drug applications (NADA's) for certain penicillin, streptomycin, vitamin combination products. In the same issue of the FEDERAL REGISTER (41 FR 28313), the Director proposed to revoke § 540.174b, which includes the provisions providing for the certification of these drugs pursuant to the requirements of section 512(n) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(n)).

Elsewhere in this issue of the FEDERAL REGISTER, the Commissioner of Food and Drugs is denying a hearing and withdrawing the approvals for these combination products. The basis upon which the subject applications are being withdrawn and the certification provisions revoked is fully discussed in that order.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 507, 512, 59 Stat. 463 as amended, 82 Stat. 343-351 (21 U.S.C. 357, 360b)) and under authority delegated to the Commissioner (21 CFR 5.1), Part 540 is amended by revoking,

§ 540.174b Penicillin-streptomycin powder; penicillin-dihydrostreptomycin powder.

Effective date. This amendment becomes effective February 17, 1978.

(Secs. 507, 512, 59 Stat. 463 as amended, 82 Stat. 343-351 (21 U.S.C. 357, 360b).)

Dated: February 7, 1978.

SHERWIN GARDNER,
Acting Commissioner of Food and Drugs.

[FR Doc. 78-4236 Filed 2-16-78; 8:45 am]

[4830-01]

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER A—INCOME TAX

[T.D. 7534; LR-280-74]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Assignment or Alienation of Benefits

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document provides final regulations relating to the assignment or alienation of retirement benefits due an employee under certain employee plans. Changes in the applicable tax law were made by the Employee Retirement Income Security Act of 1974. These regulations provide necessary guidance to the public for compliance with the law, and affect all employees who are entitled to receive retirement benefits under certain employee plans.

EFFECTIVE DATE: The regulations are effective as of January 1, 1976.

FOR FURTHER INFORMATION CONTACT:

Norman J. Misher of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224 (Attention: CC:LR:T), 202-566-3737 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

BACKGROUND

On December 28, 1976, the FEDERAL REGISTER published proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 401(a)(13) of the Internal Revenue Code of 1954 (41 FR 56334). The amendments were proposed to conform the regulations to section 1021(c) of the Employee Retirement Income Security Act of 1974 (88 Stat. 937). A public hearing was held on April 15, 1977. After consideration of all comments regarding the proposed amendments, those amendments are adopted as revised by this Treasury decision.

GENERAL RULE

The regulations provide that a trust will not be qualified under section 401 unless the plan of which the trust is a part provides that plan benefits may not be anticipated, assigned, alienated, or subject to attachment, garnishment, levy, execution, or other legal or equitable process.

EXCEPTIONS TO GENERAL RULE

The regulations also provide that a plan provision satisfying the general rule does not preclude (1) the enforcement of a Federal tax levy made pursuant to section 6331 of the Code or (2) the collection on a judgment resulting from an unpaid Federal Tax assessment. Although several commentators stated that there is no statutory basis for distinguishing between a Federal tax levy and any other levy, the Employee Retirement Income Security Act of 1974 ("ERISA") and the Code provide sufficient statutory authority for this rule.

Section 206(d) of ERISA (which is in Title I of the Act) contains provisions which are substantially identical to that of section 401(a)(13) of the Code. However, section 514(d) of ERISA provides that no provision should be construed in such a way as to affect any other Federal law or any rule or regulation issued under that law. Section 6334(c) of the Code, which was in effect before the enactment of ERISA, provides that notwithstanding any other law of the United States, no property or right to property is exempt from a Federal tax levy other than certain property which is specifically made exempt under section 6334(a). The specific exemptions set forth in section 6334(a) do not include the type of benefits with which the regulations are concerned. Accordingly, it has been concluded that the enforcement of a Federal tax levy is not affected by the application of the general rule prohibiting assignments or alienations under sections 206(d) of ERISA and 401(a)(13) of the Code.

PREEMPTION OF STATE LAW

Several comments requested that the final regulations clarify whether the various State laws (including the laws of community property States) and State court orders which are or may be in conflict with the general rule of section 401(a)(13) are preempted by section 514 of ERISA. As the Internal Revenue Service does not have the authority to prescribe regulations

under Title I of ERISA, which includes section 514, these regulations do not address this issue.

Definition of Assignment and Alienation

The regulations state that the terms "assignment" or "alienation" include any arrangement whereby a party acquires a legally enforceable right or interest in, or to, a plan benefit payment. Also included under the definition of these terms is any arrangement providing for the payment to the employer of plan benefits which otherwise would be due the participant under the plan.

The regulations also list certain arrangements which are specifically excluded from being considered an assignment or alienation.

Permissible Assignments and Alienations

Section 401(a)(13) provides for two exceptions to the general rule prohibiting any assignments or alienations. The first exception is that a plan may provide for a voluntary and revocable assignment or alienation of benefits (not to exceed 10 percent of any benefit payment) by participants or beneficiaries who are in pay status, provided that it is not made for the purpose of defraying plan administration costs. The second exception is that a participant may use his vested benefits as collateral to secure certain loans. The regulations state that this exception is limited to loans from the plan and is not applicable to loans from parties other than the plan.

The prohibition of third party loans was contained in the proposed regulations and was subject to several comments which suggested that there was no statutory basis for the prohibition. However, in view of the statement in the legislative history of ERISA that "vested benefits may be used as collateral for reasonable loans from a plan" (Report of the Conference Committee, H.R. Rep. No. 93-1280, 93d Cong., 2d Sess, 280 (1974); a similar statement is found in the Report of the Committee on Ways and Means, H.R. Rep. No. 93-807, 93d Cong., 2d Sess. 69 (1974)), it has been concluded that there is no basis for extending the loan exception to third party loans.

Special Rule for Certain Arrangements

The regulations contain a special rule which provides that an arrangement in which the participant directs the payment of all or a portion of a benefit payment to a third party (which includes the participant's employer) will not be considered an "assignment or alienation" so long as certain conditions are met. These conditions require that the arrangement be revocable at any time, and that the third party file a written acknowledgement with the plan administrator.

Under the proposed regulations, this special rule was only applicable to arrangements involving third parties, other than the employer. However, several commentators pointed out that in many instances an arrangement with the employer provides greater benefits for the employee than any other third party arrangement. Accordingly, the final regulations extend the special rule to cover employer arrangements.

The proposed regulations also required the third party to deliver an acknowledgement to each participant as well as the plan. However, under the special rule contained in the final regulations, a third party is only required to file a written acknowledgement with the plan administrator. The change will result in much less of an administrative burden for the plan and third party. The regulations also state that a blanket written acknowledgement for all participants who are covered under an arrangement with the third party satisfies the acknowledgement requirement.

Finally, in response to several requests, the regulations have extended the time within which the written acknowledgements must be filed with the plan administrator.

Effective Date

The regulations require that the plan provision providing for no assignment or alienation must be effective as of January 1, 1976. In addition, the regulations contain a special "grandfather" provision for attachments and garnishments that are made before January 1, 1976, as well as for certain irrevocable assignments made before that date.

Drafting Information

The principal author of this regulation was Norman J. Misher of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR Part 1 is amended by adding the following new section immediately before § 1.401(a)-14:

§ 1.401(a)-13 Assignment or alienation of benefits.

(a) *Scope of the regulations.* This section applies only to plans to which section 411 applies without regard to section 411(e)(2). Thus, for example, it does not apply to a governmental plan, within the meaning of section 414(d); a church plan, within the meaning of section 414(e), for which there has not been made the election under section 410(a) to have the participation, vesting, funding, etc. requirements apply; or a plan which at no time after September 2, 1974, provided for employer contributions.

(b) *No assignment or alienation.*—(1) *General rule.* Under section 401(a)(13), a trust will not be qualified unless the plan of which the trust is a part provides that benefits provided under the plan may not be anticipated, assigned (either at law or in equity), alienated or subject to attachment, garnishment, levy, execution or other legal or equitable process.

(2) *Federal tax levies and judgments.* A plan provision satisfying the requirements of subparagraph (1) of this paragraph shall not preclude the following:

(i) The enforcement of a Federal tax levy made pursuant to section 6331.

(ii) The collection by the United States on a judgment resulting from an unpaid tax assessment.

(c) *Definition of assignment and alienation.*—(1) *In general.* For purposes of this section, the terms "assignment" and "alienation" include—

(i) Any arrangement providing for the payment to the employer of plan benefits which otherwise would be due the participant under the plan, and

(ii) Any direct or indirect arrangement (whether revocable or irrevocable) whereby a party acquires from a participant or beneficiary a right or interest enforceable against the plan in, or to, all or any part of a plan benefit payment which is, or may become, payable to the participant or beneficiary.

(2) *Specific arrangments not considered an assignment or alienation.* The terms "assignment" and "alienation" do not include, and paragraph (e) of this section does not apply to, the following arrangements:

(i) Any arrangement for the recovery of amounts described in section 4045(b) of the Employee Retirement Income Security Act of 1974, 88 Stat. 1027 (relating to the recapture of certain payments),

(ii) Any arrangement for the withholding of Federal, State or local tax from plan benefit payments,

(iii) Any arrangement for the recovery by the plan of overpayments of benefits previously made to a participant,

(iv) Any arrangement for the transfer of benefit rights from the plan to another plan, or

(v) Any arrangement for the direct deposit of benefit payments to an account in a bank, savings and loan association or credit union, provided such

arrangement is not part of an arrangement constituting an assignment or alienation. Thus, for example, such an arrangement could provide for the direct deposit of a participant's benefit payments to a bank account held by the participant and the participant's spouse as joint tenants.

(d) *Exceptions to general rule prohibiting assignments or alienations.*—(1) *Certain voluntary and revocable assignments or alienations.* Not withstanding paragraph (b)(1) of this section, a plan may provide that once a participant or beneficiary begins receiving benefits under the plan, the participant or beneficiary may assign or alienate the right to future benefit payments provided that the provision is limited to assignments or alienations which—

(i) Are voluntary and revocable;

(ii) Do not in the aggregate exceed 10 percent of any benefit payment; and

(iii) Are neither for the purpose, nor have the effect, of defraying plan administration costs.

For purposes of this subparagraph, an attachment, garnishment, levy, execution, or other legal or equitable process is not considered a voluntary assignment or alienation.

(2) *Benefits assigned or alienated as security for loans.* (i) Notwithstanding paragraph (b)(1) of this section, a plan may provide for loans from the plan to a participant or a beneficiary to be secured (by whatever means) by the participant's accrued nonforfeitable benefit provided that the following conditions are met.

(ii) The plan provision providing for the loans must be limited to loans from the plan. A plan may not provide for the use of benefits accrued or to be accrued under the plan as security for a loan from a party other than the plan, regardless of whether these benefits are nonforfeitable within the meaning of section 411 and the regulations thereunder.

(iii) The loan, if made to a participant or beneficiary who is a disqualified person (within the meaning of section 4975(e)(2)), must be exempt from the tax imposed by section 4975 (relating to the tax imposed on prohibited transactions) by reason of section 4975(d)(1). If the loan is made to a participant or beneficiary who is not a disqualified person, the loan must be one which would be exempt from the tax imposed by section 4975 by reason of section 4975(d)(1) if the loan were made to a disqualified person.

(e) *Special rule for certain arrangements.*—(1) *In general.* For purposes of this section and notwithstanding paragraph (c)(1) of this section, an arrangement whereby a participant or beneficiary directs the plan to pay all, or any portion, of a plan benefit payment to a third party (which includes the participant's employer) will not constitute an "assignment or alienation" if—

(i) It is revocable at any time by the participant or beneficiary; and

(ii) The third party files a written acknowledgement with the plan administrator pursuant to subparagraph (2) of this paragraph.

(2) *Acknowledgement requirement for third party arrangements.* In accordance with paragraph (e)(1)(ii) of this section, the third party is required to file a written acknowledgement with the plan administrator. This acknowledgement must state that the third party has no enforceable right in, or to, any plan benefit payment or portion thereof (except to the extent of payments actually received pursuant to the terms of the arrangement). A blanket written acknowledgement for all participants and beneficiaries who are covered under the arrangement with the third party is sufficient. The written acknowledgement must be filed with the plan administrator no later than the later of—

(i) August 18, 1978; or

(ii) 90 days after the arrangement is entered into.

(f) *Effective date.* Section 401(a)(13) is applicable as of January 1, 1976, and the plan provision required by this section must be effective as of that date. However, regardless of when the provision is adopted, it will not affect—

(1) Attachments, garnishments, levies, or other legal or equitable process permitted under the plan that are made before January 1, 1976;

(2) Assignments permitted under the plan that are irrevocable on December 31, 1975, including assignments made before January 1, 1976, as security for loans to a participant or beneficiary from a party other than the plan; and

(3) Renewals or extensions of loans described in subparagraph (2) of this paragraph, if—

(i) The principal amount of the obligation outstanding on December 31, 1975 (or, if less, the principal amount outstanding on the date of renewal or extension), is not increased;

(ii) The loan, as renewed or extended, does not bear a rate of interest in excess of the rate prevailing for similar loans at the time of the renewal or extension; and

(iii) With respect to loans that are renewed or extended to bear a variable interest rate, the formula for determining the applicable rate is consistent with the formula or formulae prevailing for similar loans at the time of the renewal or extension.

For purposes of subparagraphs (2) and (3) of this paragraph, a loan from a party other than the plan made after December 31, 1975, will be treated as a new loan. This is so even if the lender's security interest for the loan arises from an assignment of the participant's accrued nonforfeitable benefit made before that date.

This Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

JEROME KURTZ,
Commissioner of Internal Revenue.

Approved: February 8, 1978.

ROBERT H. MUNDHEIM,
General Counsel.

[FR Doc. 78-4340 Filed 2-15-78; 12:19 pm]

[4510-27]

Title 29—Labor

SUBTITLE A—OFFICE OF THE SECRETARY OF LABOR

PART 6—RULES OF PRACTICE FOR ADMINISTRATIVE PROCEEDINGS ENFORCING LABOR STANDARDS IN FEDERAL SERVICE CONTRACTS

AGENCY: Employment Standards Administration, Labor.

ACTION: Final rule.

SUMMARY: This document authorizes Regional Solicitors/Regional Attorneys to file complaints under the Service Contract Act directly with the Office of Administrative Law Judges. This change will expedite the processing of Service Contract Act administrative proceedings.

DATE: This regulation is a procedural change which is effective on February 17, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Alvin Bramow, Acting Associate Solicitor for General Legal Services, Office of the Solicitor, Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210, phone 202-523-8293.

SUPPLEMENTARY INFORMATION: Enforcement proceedings before an Administrative Law Judge in Service Contract Act matters are presently instituted by the Deputy Solicitor. To expedite the bringing of such proceedings this document also authorizes Regional Solicitors/Regional Attorneys to bring such actions.

This document was prepared under the direction and control of Alvin Bramow, Acting Associate Solicitor for General Legal Service, Office of the Solicitor.

Paragraph (a) of § 6.3, 29 CFR Part 6 is revised as follows:

§ 6.3 Complaints.

(a) Enforcement proceeding may be instituted by the Deputy Solicitor, or Regional Solicitors/Regional Attorneys by issuing a complaint and caus-

ing the complaint to be served upon the respondent.

* * * * *

Signed at Washington, D.C. on this 10th day of February 1978.

DONALD E. ELISBURG,
Assistant Secretary for Employment Standards.

[FR Doc. 78-4169 Filed 2-16-78; 8:45 am]

[6560-01]

Title 40—Protection of Environment

[FRL 856-8]

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER C—AIR PROGRAMS

PART 52—APPROVAL AND PROMULGATION OF STATE IMPLEMENTATION PLANS: ARIZONA

Sulfur Oxide Control Strategy and Regulations for Existing Nonferrous Smelters

AGENCY: Environmental Protection Agency.

ACTION: Deferral of effectiveness of rule.

SUMMARY: This action temporarily defers the effectiveness of the State implementation plan regulations governing the emission of sulfur dioxide from the seven Arizona copper smelters. Those regulations were published on January 4, 1978 (43 FR 755). The effectiveness of the regulations is being deferred to ensure that the affected smelters have an opportunity to apply to EPA for primary nonferrous smelter orders (NSOs) under section 119 of the Clean Air Act prior to the effective date of any requirement of the SIP regulations. The dates for required compliance with the SIP regulations will be reestablished as soon as EPA has completed and made public the contents of the NSO program and its application process under section 119.

EFFECTIVE DATE: February 17, 1978.

FOR FURTHER INFORMATION CONTACT:

Allyn M. Davis, Acting Director, Air and Hazardous Materials Division, EPA Region IX, 215 Fremont Street, San Francisco, Calif. 94105, telephone 415-556-0217.

SUPPLEMENTARY INFORMATION: On January 4, 1978, EPA published State implementation plan regulations under section 110 of the Clean Air Act for the control of sulfur dioxide emissions at seven existing copper smelters in Arizona. Among the contents of these regulations were schedules for compliance with the requirements of the State implementation plan (SIP), as well as a date for the attainment of the national ambient air quality standards for sulfur dioxide.

As the January 4, 1978, notice indicated, all Arizona smelters may apply to EPA for primary nonferrous smelter orders (NSOs) under section 119 of the Clean Air Act. Any smelter granted an NSO would be permitted on an interim basis to use dispersion techniques to prevent violations of the national ambient air quality standards in its vicinity, instead of complying with the emission limitations contained in the SIP. It was the Agency's intent, in formulating the compliance schedules contained in the regulations, to afford the Arizona smelters approximately sixty days after the publication of the regulations during which they might commence the process of applying for NSOs, prior to the arrival of the first compliance date required by the SIP regulations.

EPA believes that such a period is consistent with the intent of Congress in enacting section 119. Because the Agency has not yet completed the development of the NSO program, including its application process, EPA is today temporarily deferring the effectiveness of the SIP regulations. When the Agency has completed and made public the contents of the NSO program and its application process, new compliance and attainment dates will be established. Those dates will provide the same intervals of time for compliance (adjusted to the time of reinstatement), including the sixty day decision period, as did the original regulations.

The Administrator hereby finds that good cause exists to publish this notice of final rulemaking without prior opportunity for public comment and to make it effective immediately. That cause is the need to defer the effectiveness of the regulations prior to the time the first compliance date would have been reached.

This rule is published under the authority of sections 110, 119, and 301 of the Clean Air Act, as amended (42 U.S.C. 7410, 7419, and 7601).

Dated: February 14, 1978.

DOUGLAS COSTLE,
Administrator.

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

Subpart D—Arizona

1. In §52.125, paragraph (e) is added to read as follows:

§52.125 Control Strategy and regulations: sulfur oxides.

* * * * *

(e) *Deferral of effectiveness.* Notwithstanding the provisions of paragraph (d) of this section or of §52.131 of this subpart, the requirement of compliance with the provisions of paragraph (d) of this section is hereby temporarily deferred until its reestablishment by the Administrator.

[FR Doc. 78-4466 Filed 2-16-78; 8:45 am]

[6820-24]

Title 41—Public Contracts and Property Management

CHAPTER 1—FEDERAL PROCUREMENT REGULATIONS

[FPR Amdt. 188]

PART 1-16 PROCUREMENT FORMS

New Editions of Standard Forms

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: This amendment of the Federal Procurement Regulations prescribes the October 1977 edition of Standard Form 37, Report on Procurement by Civilian Executive Agencies, and the July 1977 (first) edition of Standard Form 37A, Report on Procurement by Executive Agencies which will supplement Standard Form 37. The action is taken to incorporate the changes on the forms which are necessary to measure compliance with the provisions of the Small Business Act as amended by the provisions of Pub. L. 95-89, August 4, 1977, and to respond to a request by the Administrator, Office of Federal Procurement Policy. The amendment will provide a means to evaluate the results achieved under Pub. L. 95-89, and will provide for the reporting of procurement data on a Government-wide basis as requested by OFPP.

EFFECTIVE DATE: This amendment is effective October 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Philip G. Read, Director of Federal Procurement Regulations, 703-557-8947.

SUPPLEMENTARY INFORMATION: It is anticipated that copies of the forms will be available for use by March 31, 1978, and may be obtained by submitting a requisition in FEDSTRIP/MILSTRIP format to the appropriate GSA regional office.

The table of contents of Part 1-16 is amended to add the following:

Sec.
1-16.901-37A Standard Form 37A: Report on Procurement by Executive Agencies (Supplement to Report on Procurement by Civilian Executive Agencies for Procurements in Excess of $10,000).

Subpart 1-16.8—Miscellaneous Forms

1. Section 1-16.804-2 is revised to read as follows:

§ 1-16.804-2 Agencies required to report.

(a) Each executive agency (including Department of Defense) shall report its procurement to the General Services Administration for the agency as a whole and for each bureau or comparable major organizational unit of the agency. When procurement is performed by one agency for another, the agency performing the procurement shall report the transactions; however, when an agency establishes contracts for use by other agencies, only the agencies procuring under such contracts shall report (see § 1-16.804-3(c)(2)). Agencies shall submit negative reports if no reportable procurements are made during the reporting period.

(b) The Department of Defense (DOD) need not report data regarding total set-asides (small business or otherwise) to be performed in labor surplus areas. This reflects the Maybank Amendment of the DOD Appropriations Act. Preference awards by DOD for performance in labor surplus areas should be reported on Standard Form 37 under remarks.

2. Section 1-16.804-3 is amended to revise paragraph (a) to read as follows:

§ 1-16.804-3 Standard Form 37, Report on Procurement by Civilian Executive Agencies.

(a) *Forms prescribed.* Report on Procurement by Civilian Executive Agencies (Standard Form 37, October 1077 edition) and Report on Procurement by Executive Agencies (Supplement to Report on Procurement by Civilian Executive Agencies for Procurements in Excess of $10,000), (Standard Form 37A, July 1977 edition), are prescribed for use when reporting on procurement in accordance with this section. Both forms are now applicable to the Department of Defense as well as to civilian executive agencies. Where determined advantageous by the reporting agency, mechanized printout reports containing the same information and in the same format as called for by the standard format may be submitted in lieu of Standard Forms 37 and 37A.

* * * * *

3. Section 1-16.804-4 is amended to revise paragraph (b) to read as follows:

§ 1-16.804-4 Contracts placed in labor surplus areas.

* * * * *

(b) Detailed listings showing the dollar amounts of contracts placed in specific labor surplus areas shall not be submitted to the General Services Administration pursuant to the requirements of this section. To the extent required, the reporting of such data will be in accordance with a separate reporting requirement.

Subpart 1-16.9—Illustrations of Forms

Section 1-16.901-37 is revised to illustrate the new edition of Standard Form 37.

§ 1-16.901-37 Standard Form 37: Report on Procurement by Civilian Executive Agencies.

(a) Page 1 of Standard Form 37.

REPORT ON PROCUREMENT BY CIVILIAN EXECUTIVE AGENCIES *(See Instructions on reverse)*	Interagency Report Control No. 1118 GSA SA	PERIOD COVERED	FORM APPROVED OMB No. 29-R0018

REPORTING AGENCY *(Include bureau, office, etc.)*

REFER QUESTIONS TO *(Name and title)*	TELEPHONE NO. *(or Code and Extension)*

PART I—TOTAL PRIME PROCUREMENT

PROCUREMENTS REPORTED (a)	NET DOLLAR AMOUNT PROCURED *(Round to nearest thousand)* TOTAL *(c+d)* (b)	Small Business Concerns (c)	Other Than Small Business (d)	Minority Business Enterprise (e)
1. Total (2+3+4)				
2. Formally advertised				
3. Negotiated				
4. Procurements under other agency contracts (5+6)				
5. Fed. Sup. Sched. & other GSA contracts				
6. Other agency contracts				

PART II—STATISTICS ON SELECTED TYPES OF PROCUREMENT
(Breakouts of procurements reported in Part I)*

PROCUREMENTS REPORTED (a)	NET DOLLAR AMOUNT PROCURED *(Round to nearest thousand)* TOTAL *(c+d)* (b)	Small Business Concerns (c)	Other Than Small Business (d)
7. Small business set-asides (8+9+10)			
8. Total set-asides other than construction (No. of actions ___)			
9. Partial set-asides other than construction (No. of actions ___)			
10. Construction set-asides (No. of actions ___)			
11. Public or private organizations or individuals (No. of actions ___)			
12. Procurements in labor surplus areas (13 + 16)(No. of actions ___)			
13. Under preference procedures (14+15) (No. of actions ___)			
14. Total labor surplus set asides (Small Bus.) (No. of actions ___)			
15. Total labor surplus set asides (General) (No. of actions ___)			
16. Under nonpreference procedures (No. of actions ___)			
17. Procurement of construction (No. of actions ___)			
18. Procurement from educational institutions and nonprofit organizations (No. of actions ___)			

SPECIMEN

*Procurement not broken out under the agency's reporting system, due to dollar value floors on reportable transactions, may be omitted from Part II. However, the dollar amounts of such cut offs must be entered under "Remarks."

PART III—SMALL BUSINESS SUBCONTRACTING PROGRAM

19. Dollar amount of subcontract and purchase commitments under the Small Business Subcontracting Program			
20. No. of prime contractors submitting small business subcontracting reports			

PART IV—MINORITY BUSINESS ENTERPRISES SUBCONTRACTING PROGRAM

PROCUREMENTS REPORTED (a)	NET DOLLAR AMOUNT PROCURED *(Round to nearest thousand)* TOTAL *(c+d)* (b)	Minority Business Enterprises (c)	Other Than Minority Business Enterprises (d)
21. Dollar amount of subcontract and purchase commitments under the Minority Business Enterprises Subcontracting Program			
22. No. of prime contractors submitting minority business enterprises subcontracting reports			

Remarks

SUBMITTED BY *(Signature)*	TITLE	DATE

37-106

STANDARD FORM 37 (Rev. 10-77)
Prescribed by GSA, FPR (41 CFR) 1-16.804

(b) Page 2 of Standard Form 37.

I. GENERAL INSTRUCTIONS

A. Submission of Reports. Cumulative reports are to be submitted semi-annually within 45 calendar days after the end of each reporting period. One report for the 6-month period ending March 31, and the other for the 12-month period ending September 30 of each year.

B. Procurements to be Reported. Except as otherwise provided herein, the report shall include the dollar amount of all commitments which obligate the Government to an expenditure of funds for property and services (including maintenance, repair and construction of buildings, roads, etc.; and research and development). The dollar amount for small purchases under $10,000 may be developed by generally accepted statistical sampling methods, and purchases under $100 may be excluded from lines numbered 2 and 3. Also, exclude procurements (1) from Governmental sources of supply, such as D.C. Government, Federal Prisons Industries, Inc., Government Printing Office, and General Services Administration (supply depots, fuel yards, etc.); and (2) for transportation by government bill of lading and transportation of personnel.

C. Definitions.

(1) "Net Dollar Amount Procured" or "Dollar Amount" means the actual or estimated cost to the Government of the property or services procured. In most instances, this is the obligation incurred.

(2) "Small Business Concern" means any firm which meets the criteria established by Title 13, Chapter 1, Part 121 of the Code of Federal Regulations.

(3) "Labor Surplus Area" means any geographical area of substantial unemployment, persistent unemployment, and any section of concentrated unemployment or underemployment, as defined and classified in the Department of Labor publication "Area Trends in Employment and Unemployment." (See FPR 1–16.804–4 regarding principal place of performance.)

(4) "Other Than Small Business" means large business concerns, non-profit organizations, educational institutions, and any others which do not meet the criteria for classification as a small business concern.

(5) "Minority Business Enterprise" is a "business, at least 50 percent of which is owned by minority group members or, in case of publicly owned businesses, at least 51 percent of the stock of which is owned by minority group members." For the purpose of this definition, minority group members are Negroes, Spanish-speaking American persons, American-Orientals, American-Indians, American Eskimos, and American Aleuts.

II. INSTRUCTIONS FOR LINE ENTRIES

(Except self-explanatory lines)

Small Business Act (See section 502(c) of Public Law 95-89, August 4, 1977, 15 USC 644(c)).

Line 13. Enter the dollar amount of procurements awarded by the reporting agency in Labor Surplus Areas under preference procedures, including set-asides and tie bids (see FPR 1-1. 807).

Line 16. Enter the dollar amount of procurements awarded by the reporting agency in Labor Surplus Areas under non-preference procedures (see FPR 1–1.807).

Line 17. Enter the dollar amount of contracts for construction, alteration, and repair (including painting and decorating) of buildings, bridges, roads or other real property.

Line 19. Enter the dollar amount of subcontract and purchase commitments reported by prime contractors under the Small Business Subcontracting Program (see 1–16.804–5). Due to timing factors, this dollar amount need not be directly related to prime contracts placed during any reporting period.

Line 20. Enter the number of prime contractors that are currently submitting small business subcontracting reports.

Line 21. Enter the dollar amount of subcontract and purchase commitments reported by prime contractors under the Minority Business Enterprises Subcontracting Program (see FPR 1–16.804–5). Due to timing factors, this dollar amount need not be directly related to prime contracts placed during any reporting period.

Line 22. Enter the number of prime contractors that are currently submitting minority business enterprises subcontracting reports.

Standard Form 37 Back (Rev. 10-77)

SPECIMEN

Section 1-16.901-37A is added to illustrate the first edition of Standard Form 37A.

§ 1-16.901-37A Standard Form 37A, Report on Procurement by Executive Agencies (Supplement to Report on Procurement by Civilian Executive Agencies for Procurements in Excess of $10,000).

REPORT ON PROCUREMENT BY EXECUTIVE AGENCIES (Supplement to Report on Procurement by Civilian Executive Agencies For Procurements in Excess of $10,000)			
	1118-GSA-SA		29-R0018

PART I — NEGOTIATED PRIME PROCUREMENT

PROCUREMENTS REPORTED (a)	NET DOLLAR AMOUNT PROCURED (Round to nearest thousand) TOTAL (c + d) (b)	SMALL BUSINESS CONCERNS (c)	OTHER THAN SMALL BUSINESS (d)	MINORITY BUSINESS ENTERPRISE (e)	EDUCATION AND OTHER NON-PROFIT INSTITUTIONS (f)
1. Negotiated (2+3)					
2. Competitive					
3. Non-Competitive					
PART II — SERVICES (Non-Personal)					
4. Services (5+6+7+8)					
5. Construction					
6. Professional Services					
7. Transportation					
8. Other					
PART III — PERSONAL PROPERTY					
9. Personal Property (Equipment and supplies)					

SPECIMEN

SUBMITTED BY (Signature)	TITLE	DATE

37-201

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

NOTE.—The General Services Administration 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.

Dated: February 7, 1978.

JAY SOLOMON,
Administrator of General Services.

[FR Doc. 78-4384 Filed 2-16-78; 8:45 am]

[4110-07]

Title 45—Public Welfare

CHAPTER II—SOCIAL AND REHABILITATION SERVICE, (ASSISTANCE PROGRAMS), DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 206—APPLICATION, DETERMINATION OF ELIGIBILITY AND FURNISHING OF ASSISTANCE—PUBLIC ASSISTANCE PROGRAMS

Dissemination of Information on Public Assistance

AGENCY: Social Security Administration and Health Care Financing Administration, HEW.

ACTION: Final regulation.

SUMMARY: The amendment to the regulation makes it clear that information concerning the public assistance programs under titles I, IV-A, X, XIV, XVI (AABD), and XIX of the Social Security Act must be made available to all persons, whether they are actual or potential applicants or merely persons seeking information. The information that must be made available refers only to information about coverage, conditions of eligibility, scope, related services available, and the rights and responsibilities of applicants for and recipients of assistance of the programs involved and not to information about identifiable claimants. This amendment is needed because some State and local agencies have interpreted the furnishing of information provisions in the regulation to mean that only persons who have made a signed application for public assistance shall be given information about the programs. The intended effect of this amendment to the regulation is to ensure that State and local agencies furnish information to any person who seeks information about the financial assistance and medical assistance programs.

EFFECTIVE DATE: February 17, 1978.

FOR FURTHER INFORMATION CONTACT:

Miss Helen Hamilton, Assistance Payments Program Specialist, Office of Family Assistance, Switzer Building, 330 C Street SW., Washington, D.C. 20201, telephone 202-245-1721.

SUPPLEMENTARY INFORMATION: A notice of proposed rule making was published in the FEDERAL REGISTER on December 30, 1976 (41 FR 56832). The amendment to the regulation is responsive to reports from recipient group representatives that some State and local agencies have not made printed or oral information about the public assistance programs available to persons seeking information unless they are applicants as defined in 45 CFR 206.10(b)(1). The basis of the

amendment is the belief of the Social Security Administration (SSA) and the Health Care Financing Administration (HCFA) that clarification is needed to prevent misinterpretation by State and local agencies and to ensure that any person who wishes information receives it. Accordingly, paragraphs (a)(1) and (a)(2)(i) of 45 CFR 206.10 are being revised to specify that information concerning the program shall be provided to any person who requests it, and applicants and all persons who inquire about the programs shall be informed of the eligibility requirements and the rights and obligations of individuals under the programs.

Interested persons were given the opportunity to submit, within 45 days, data, views, or arguments with regard to the proposed changes. The comment period has expired and comments were received from nine State welfare agencies, one hospital association, and one legal aid society. All comments received were in favor of the proposed amendment. Of these respondents, the legal aid society and three State welfare agencies requested clarification of the terms "information" and "coverage and conditions of eligibility" and "how and to what extent information is to be made available." The following is a discussion of their comments and SSA's responses:

1. *Comment:* One State welfare agency suggested a conclusive definition of "information" to differentiate from information available under the regulations in 45 CFR 205.70.

Response: Information as referred to in this regulation is confined to oral accounts and handout materials, such as pamphlets and brochures, that convey information regarding coverage and conditions of eligibility to those applicants for, or recipients of, assistance or to other individuals who seek information on the types of assistance or services that can be provided under the assistance programs. 45 CFR 205.70, however, limits the types of information a person may seek to program manuals, policy issuances, and State agency rules and regulations that relate to administrative practices within the State.

2. *Comment:* One State welfare agency asked how and to what extend should program pamphlets be published and made available in quantity.

Response: Program pamphlets which are published by the State about the public assistance programs must be in sufficient supply to be made available to all persons inquiring about the program or applying for assistance. The system by which the State makes this information available and the quantity available for distribution are procedural matters for which the State is responsible.

3. *Comment:* One State welfare agency objected to the words "conditions of eligibility" as they are constantly being changed. The agency felt that this necessitated revision and reprinting of pamphlets at a great expense to the agency.

Response: Although eligibility conditions change as a result of change in law, it is expected that even as instructional material is made available to agency staff regarding program eligibility changes, an informational flyer could also be prepared for public dissemination.

4. *Comment:* The legal aid society felt that (a) the language of the proposed amendment does not spell out clearly enough those persons to whom the information must be given; (b) a lack of awareness by poor people of the different programs available could mean that these people would fail to present the total problem to the intake worker; (c) the intake worker needs to provide basic eligibility information regarding all available programs; and (d) there should be an oral explanation of pamphlets.

Response: The revision specifies that "applicants and all individuals who inquire about the program shall be informed. * * *" It is inherent that workers will explain the programs available in the discussion regarding coverage and scope of the program, etc. A further revision concerning the dissemination of information on public assistance programs is being undertaken by SSA and HCFA and these comments will be considered.

Accordingly, after consideration of all comments and suggestions, the proposed amendment is hereby adopted with minor editorial changes for clarity as set forth below.

(Sec. 1102 of the Social Security Act; 49 Stat. 647, as amended; 42 U.S.C. 1302.)

(Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance Program and 13.761, Public Assistance—Maintenance Assistance (State Aid).)

NOTE.—The Social Security Administration 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.

Dated: December 27, 1977.

DON WORTMAN,
Acting Commissioner of Social Security.

Dated: January 16, 1978.

ROBERT A. DERZON,
Administrator, Health Care Financing Administration.

Approved: February 13, 1978.

JOSEPH A. CALIFANO, Jr.,
Secretary of Health, Education, and Welfare.

Part 206 of Chapter II of Title 45 of the Code of Federal Regulations is amended by revising paragraphs (a)(1) and (a)(2)(i) of § 206.10 to read as follows:

§ 206.10 Application, determination of eligibility and furnishing of assistance.

(a) *State plan requirements.* A State plan under title I, IV-A, X, XIV, XVI, or XIX of the Social Security Act shall provide that:

(1) Each individual wishing to do so shall have the opportunity to apply for assistance under the plan without delay and information concerning the program shall be provided to any individual who requests it. Under this requirement:

(i) Each individual may apply under whichever of the State plans he chooses;

(ii) The agency shall require a written application, signed under a penalty of perjury, on a form prescribed by the State agency, from the applicant himself, or his authorized representative, or, where the applicant is incompetent or incapacitated, someone acting responsibly for him;

(iii) An applicant may be assisted, if he so desires, by an individual(s) of his choice (who need not be a lawyer) in the various aspects of the application process and the redetermination of eligibility and may be accompanied by such individual(s) in contacts with the agency and when so accompanied may also be represented by them; and

(iv) (A) Individuals found eligible for financial assistance under a State plan for title I, IV-A, X, XIV, or XVI (AABD) are eligible for medical assistance without a separate application.

(B) Aged, blind, or disabled individuals found eligible for Supplementary Security Income benefits under Title XVI of the Act or for State supplemental payments are eligible for medical assistance without a separate application to the extent provided for in agreements between the individual's State of residence and the Social Security Administration; and

(C) Individuals not found eligible as specified in paragraph (a)(1)(iv) (A) or (B) of this section must file a separate application for medical assistance.

(v)(A) For assistance under title XIX, the agency shall request on the application the social security number (SSN) of each individual (including children) for whom assistance is requested. Under this requirement, the agency shall advise the applicant whether disclosure of such number is mandatory or voluntary, by what statute or other authority such number is requested, and what uses will be made of it. Disclosure of the SSN may be made mandatory only if the State had in existence and operating prior to January 1, 1975, a system of welfare or Medicaid records for which disclosure of the SSN was required, by statute or regulation, in order to verify the identity of the individual. If any individual cannot provide a SSN either because he has not been issued one or he does not know his SSN, and wishes to

secure one, the agency shall assist him in filling out an application for such number on such forms and under such procedures as may be required by the Social Security Administration (SSA) and shall transmit it to the SSA. Under this requirement, the agency shall also obtain such evidence as may be required under SSA regulations to establish the age, citizenship or alien status, and true identity of such applicant, and, where the case record attests that a previous social security number has been issued, request verification of the number by SSA. Where disclosure of the SSN is voluntary, no individual who is otherwise eligible shall be denied assistance because of failure or refusal to disclose or apply for a SSN, and the individual shall be so informed.

(B) The provisions of paragraph (a)(1)(v)(A) of this section shall apply to title IV-A for the period prior to July 1, 1975.

(C) The agency shall not deny or delay assistance to an eligible individual pending issuance by SSA or verification by the agency of his SSN.

(2)(i) Applicants and all individuals who inquire about the program shall be informed about the eligibility requirements and the rights and obligations of individuals under the program. Under this requirement individuals are given information in written form, and orally as appropriate, about coverage, conditions of eligibility, scope of the program, and related services available, and the rights and responsibilities of applicants for and recipients of assistance. Specifically developed bulletins or pamphlets explaining the rules regarding eligibility and appeals in simple, understandable terms, are publicized and available in quantity.

* * * * *

[FR Doc. 78-4437 Filed 2-16-78; 8:45 am]

[7035-01]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

PART 1033—CAR SERVICE

[Service Order No. 1273-A]

DISTRIBUTION OF FREIGHT CARS

AGENCY: Interstate Commerce Commission.

ACTION: Emergency order (Service Order No. 1273-A).

SUMMARY: Service Order No. 1273 authorized the Chicago, Rock Island & Pacific Railroad to substitute two 40-ft. plain boxcars for each 50-ft. or larger boxcar ordered. The Rock Island had surplus 40-ft. boxcars stored while experiencing shortages of 50-ft. and larger plain boxcars. Because the Rock Island no longer has a surplus of 40-ft. boxcars, Service Order No. 1273-A vacates Service Order No. 1273.

DATE: Effective February 14, 1978.

FOR FURTHER INFORMATION CONTACT:

C. C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, telephone 202-275-7840, telex 89-2742.

SUPPLEMENTARY INFORMATION: The order is printed in full below.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 13th day of February 1978.

Upon further consideration of Service Order No. 1273 (42 FR 46055, 57317, and 63788), and good cause appearing therefor:

It is ordered, That:

§ 1033.1273 Car Service Order No. 1273.

(a) Distribution of freight cars is vacated effective February 14, 1978.

(49 U.S.C. 1(10-17).)

It is further ordered, That a copy of this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this order be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board members, Joel E. Burns, Robert S. Turkington, and John R. Michael. Member John R. Michael not participating.

H. G. Homme, Jr.,
Acting Secretary.

[FR Doc. 78-4452 Filed 2-16-78; 8:45 am]

[4310-55]

Title 50—Wildlife and Fisheries

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

PART 26—PUBLIC ENTRY AND USE

Opening of Union Slough National Wildlife Refuge, Iowa, to Public Entry and Use

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to public entry and use of Union Slough National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATE: As stated in "Special Conditions".

FOR FURTHER INFORMATION CONTACT:

Refuge Manager, Richard Antonette, R#1 Box 32-B, Titonka, Iowa 50480, telephone number 515-928-2523.

SUPPLEMENTARY INFORMATION:

§ 26.34 Special regulations concerning public access, use and recreation for individual national wildlife refuges.

Public access on the Union Slough National Wildlife Refuge, Iowa, is permitted during daylight hours only on the following areas as designated by signs and delineated on maps available at refuge headquarters and from the Area Manager, U.S. Fish and Wildlife Service, Suite 106, Rockcreek Office Building, 2701 Rockcreek Parkway, North Kansas City, Mo. 64116. The following areas are open under special conditions:

1. Union Slough Auto Tour Route is open Saturday and Sunday during the last two weekends in April, July, and September, 1978, weather permitting. Foot travel in designated areas is permitted.

2. Deer Meadow Picnic Area and Indian Bluff Nature Trail are open April 15 to September 30, 1978 for access by foot travel. Parking is permitted in designated parking area only.

3. Vanishing Prairie Grassland Area is open July 15 through September 30, 1978 for access by foot travel. Parking is permitted in designated parking area only.

4. Deer Observation Area is open from date of publication in the Federal Register until December 31, 1978. Parking is permitted.

5. Pets must be on a leash less than ten feet in length, at all times.

The provisions of this special regulation supplement the regulations which govern public entry and use on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 26 and are effective through December 31, 1978.

Note.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement

under Executive Order 11949 and OMB Circular A-107.

BARB MEYER,
Acting Refuge Manager.

JANUARY 27, 1978.

[FR Doc. 78-4386 Filed 2-16-78; 8:45 am]

[4310-55]

PART 33—SPORT FISHING

Opening of Union Slough National Wildlife Refuge, Iowa, to Sport Fishing

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to sport fishing of Union Slough National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: April 15, 1978 through September 30, 1978.

FOR FURTHER INFORMATION CONTACT:

Refuge Manager, Richard Antonette, R#1 Box 32-B, Titonka, Iowa 50480, telephone number 515-928-2523.

SUPPLEMENTARY INFORMATION:

§ 33.5 Special regulations; sport fishing: for individual wildlife refuge areas.

Sport fishing is permitted on the Union Slough National Wildlife Refuge, Iowa, during daylight hours only on the areas designated by signs as being open to fishing. These areas comprising 8 acres and road right-of-ways traversing the refuge are delineated on maps available at the refuge headquarters and from the office of the Area Manager, U.S. Fish and Wildlife Service, Suite 106, Rockcreek Office Building, 2701 Rockcreek Parkway, North Kansas City, Mo. 64116. Sport fishing shall be in accordance with all applicable State regulations subject to the following condition:

1. The use of boats, canoes, or other floating devices is prohibited.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 33. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

BARB MEYER,
Acting Refuge Manager.

JANUARY 27, 1978.

[FR Doc. 78-4385 Filed 2-16-78; 8:45 am]

[3510-22]

CHAPTER II—NATIONAL MARINE FISHERIES SERVICE, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

SUBCHAPTER G—PROCESSED FISHERY PRODUCTS, PROCESSED PRODUCTS THEREOF, AND CERTAIN OTHER PROCESSED FOOD PRODUCTS

PART 260—INSPECTION AND CERTIFICATION

Lot Inspection—Contract Basis

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

ACTION: Final rule.

SUMMARY: This document establishes rates to be charged for the conduct of lot inspections of fishery products performed on a written contract basis. By making provisions for the conduct of lot inspection service on a written contract, guaranteed minimum usage basis, the inspection program can make more efficient use of inspector's time, which, in turn, will reduce the cost of the service to those parties who use it on a continuing basis.

EFFECTIVE DATE: These amended rates become effective February 17, 1978.

FOR FURTHER INFORMATION CONTACT:

Irving D. Sackett, Jr., Director of Inspection Services, Seafood Quality and Inspection Division, National Marine Fisheries Service, Washington, D.C. 20235, 202-634-7458.

SUPPLEMENTARY INFORMATION: On pages 41440 and 41441 of the FEDERAL REGISTER of August 17, 1977, there was published a proposal to amend § 260.70(b)(3). Interested persons were given until September 15, 1977 to submit comments.

No comments have been received. The proposed amendment is hereby adopted and is set forth below. Note that while no changes were made in the proposed rule, the schedule of fees, § 260.70, was revised upwards in a separate action after the proposal was published on August 17, 1977.

Accordingly, 50 CFR Part 260 § 260.70(b)(3) is amended to read as follows:

§ 260.70 Schedule of fees.

* * * * *

(b) * * *

(3) Type III—Miscellaneous Inspection and Consultative Services. When any inspection or related service, including but not limited to, initial and final establishment surveys, appeal inspection sanitation evaluation, SIFE inspections, sampling, product evaluation, label and product specifications review, and lot inspection—contract basis, rendered is such that charges based on the foregoing section are clearly inapplicable, charges will be based on the rates set forth below:

	Per hour
Regular time	$21.55
Overtime	27.50
Sunday and legal holidays (2 hr minimum)	35.00
Minimum fee	16.25

For miscellaneous inspection and consultative services performed between the hours of 7 a.m. and 5 p.m., Monday through Friday: $21.55 per hour. For miscellaneous inspections and consultative services performed at times Monday through Friday other than 7 a.m. to 5 p.m. and on Saturdays (2 hr. minimum): $27.50 per hour.

For miscellaneous inspection and consultative services performed on Sunday and national legal holidays (2 hr. minimum): $35 per hour. The minimum service fee to be charged and collected for miscellaneous inspection and consultative services requiring less than 1 hour shall be $16.25.

Dated: February 9, 1978.

THEODORE P. GLEITER,
Assistant Administrator, for Administration.

[FR Doc. 78-4389 Filed 2-16-78; 8:45 am]

[3510-12]

CHAPTER VI—FISHERY CONSERVATION AND MANAGEMENT, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 652—ATLANTIC SURF CLAM AND OCEAN QUAHOG FISHERIES

AGENCY: National Oceanic and Atmospheric Administration/Commerce.

ACTION: Final regulations.

SUMMARY: These regulations implement the fishery management plan prepared by the Mid-Atlantic Fishery Management Council for the surf clam and ocean quahog fisheries which was approved by the Secretary on November 17, 1977. These regulations are similar to and supersede the emergency regulations which were first promulgated on November 17, 1977. New sections have been added which create a moratorium on entry into the fishery, and establish a permit system.

EFFECTIVE DATE: 0001 hours e.s.t., February 17, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. William G. Gordon, Regional Director, Northeast Region, National Marine Fisheries Service, 14 Elm Street, Gloucester, Mass. 01930, telephone 617-281-3600.

SUPPLEMENTARY INFORMATION: Section 305 of the Fishery conserva-

tion and Management Act of 1976, 16 U.S.C. 1801 et seq., as amended (Act), authorizes the Secretary of Commerce (Secretary) to promulgate necessary regulations to implement approved fishery management plans.

These regulations were published in the FEDERAL REGISTER in substantially the same form as proposed rulemaking on January 3, 1978, and public comments were solicited at that time. Two commentors suggested that the Regional Director be given the authority to take management measures at the beginning of each quarter rather than wait until 50% of the quarterly quota was taken. This additional flexibility will allow the Regional Director to reduce the level of effort to ensure that fishing for surf clams will continue throughout the entire quarter. Such a measure should have a beneficial impact on individuals in the fishery. Section 652.7 has been changed to provide the Regional Director with this additional flexibility. Management measures taken at the beginning of any quarter will be based on historical catch records with the emphasis on the previous quarter's catch as reflected by the statistics provided to the Northeast Region.

A number of comments were received which reflected a concern over the selection of the specific days a vessel could fish for surf clams after the Regional Director had made the management decision to reduce the effort from four to two days. Commentors indicated that the present system fo fishing only on the two days indicated on the vessels permit application is too restrictive, because some of the smaller vessels are limited in their ability to fish on bad weather days. If the bad weather coincides with their selected fishing day, it results in the permanent loss of a day's fishing. A number of schemes for allowing individuals to change their selected fishing days were suggested. The comments received are not directed toward the proposed regulations but rather toward a management measure that can, and has in the past been taken by the Regional Director. As such these comments will be taken into consideration by the Regional Director when and if he reduces the effort from four to two days for any quarter. A Notice addressing these comments will be published in the near future.

No other substantive comments were received.

The regulations are similar to the emergency regulations that they replace and which were implemented on November 17, 1977, for 45 days and repromulgated January 1, 1978, for an additional 45 days. The basic differences are the moratorium provision (§ 652.9); the permit section (§ 652.10), and the increased authority of the Regional Director to take management measures for surf clams, (§ 652.7). The moratorium, which prevents the entry of vessels into the surf clam fishery, was established on the original effective date of the emergency regulation (November 17, 1977) and will remain in effect until November 16, 1978, unless terminated on an earlier date. The plan provides that the moratorium may be extended one additional year if necessary. The permit requirement has several provisions. First, any person desiring to fish for or land surf clams or ocean quahogs caught in the fishery conservation zone must first obtain a permit. The criteria for eligible vessels is also included. This is followed by a description of the application and a discussion of the procedures (including appeal procedures) for obtaining a permit. Finally, this section describes what actions must be taken to keep a permit in force. The expansion of the Regional Director's management authority has already been described above.

A special restriction on fishing effort for the remainder of the first quarter of 1978 is necessary because approximately 175,000 bushels of the quarterly surf clam quota, originally established at 350,000 bushels for the period January 1, 1978, to March 31, 1978, has already been caught under the emergency regulations. Due to the circumstances described in the Preamble to the emergency regulations (42 FR 59948) and the need for continued regulation of the surf clam and ocean quahog fishery it has been determined that these regulations shall be effective on February 17, 1978.

NOTE.—The appropriate environmental impact statement has been filed with the President's Council on Environmental Quality. The Department of Commerce has determined that this document contains a major proposal requiring preparation of an economic impact statement under Executive Orders 11821 and 11949, and OMB Circular A-107 and certifies that an economic impact statement has been prepared.

Signed at Washington, D.C., this 15th Day of February 1978.

WINFRED H. MEIBOHM,
Associate Director,
National Marine Fisheries Service.

Part 652 is added to read as follows:

Sec.
652.1 Purpose.
652.2 Definitions.
652.3 Foreign fishing.
652.4 Restrictions.
652.5 Penalties.
652.6 Catch allocations.
652.7 Effort restrictions.
652.8 Closed areas.
652.9 Vessel moratorium.
652.10 Vessel permits.
652.11 Vessel identification.
652.12 Facilitation of enforcement.
652.13 Reports and records.

AUTHORITY: Sec. 305 of the Fishery Conservation and Management Act of 1976, 16 U.S.C. 1801 et seq., as amended.

§ 652.1 Purpose.

This section regulates fishing for surf clams (*Spisula solidissima*) and ocean quahogs (*Arctica islandica*) in that portion of the Atlantic Ocean in which the United States exercises exclusive fishery management authority.

§ 652.2 Definitions.

In addition to the definitions in the Act, and unless the context requires otherwise, the terms used in this Part 652 shall have the following meaning (some definitions in the Act have been repeated here to aid fishermen in understanding the regulations).

(a) *Act.* The Fishery Conservation and Management Act of 1976, 16 U.S.C. 1801 et seq. as amended;

(b) *Assistant Administrator.* Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, 3300 Whitehaven Street NW., Washington, D.C. 20235.

(c) *Authorized official.* (1) Any commissioned, warrant, or petty officer of the Coast Guard;

(2) Any certified Enforcement or Special Agent of the National Marine Fisheries Service;

(3) Any officer designated by the head of any Federal or State agency which has entered into an agreement with the Secretary of the Commandant of the Coast Guard to enforce the provisions of the Act; or

(4) Any Coast Guard personnel accompanying and acting under the direction of any person described in subparagraph (1) of this paragraph.

(d) *Bushel.* A standard unit of measure presumed to contain 1.88 cubic feet of surf clams or ocean quahogs in the shell.

(e) *Directed fishery.* With respect to any species, means a fishery conducted for the purpose of catching that species.

(f) *Fish.* Finfish, mollusks (including surf clams and ocean quahogs), crustaceans, and all other forms of marine animal and plant life other than marine mammals, birds, and highly migratory species.

(g) *Fishery Conservation Zone (FCZ).* The zone contiguous to the territorial sea of the United States, the inner boundary of which is a line coterminous with the seaward boundary of each of the coastal States and the outer boundary of which is a line drawn in such a manner that each point on it is 200 nautical miles from the baseline from which the territorial sea is measured.

(h) *Fishing.* (1) The catching, taking or harvesting of fish;

(2) The attempted catching, taking or harvesting of fish;

(3) Any other activity which can reasonably be expected to result in the catching, taking or harvesting of fish; or

(4) Any operations at sea in support of, or in preparation for, any activity

described in subparagraphs (1) through (3).

(5) The term "fishing" does not include any scientific research activity which is conducted by a scientific research vessel.

(i) *Fishing vessel.* Any vessel, boat, ship, or other craft which is used for, equipped to be used for, or of a type which is normally used for: (1) Fishing; or (2) Aiding or assisting one or more vessels at sea in the performance of any activity relating to fishing, including, but not limited to, preparation, supply, storage, refrigeration, transportation or processing.

(j) *Operator.* With respect to any vessel, means the master or other person in charge of that vessel.

(k) *Owner.* With respect to any vessel, means any person who owns that vessel, or any charterer, whether bareboat, time, or voyage; or any person who acts in the capacity of a charterer, including but not limited to parties to a management agreement, operating agreement, or any similar agreement that bestows control over the destination, function or operation of the vessel.

(l) *Person.* Any individual, corporation, partnership, association, or other entity.

(m) *Regional Director.* The Regional Director, Northeast Region, National Marine Fisheries Service, Federal Building, 14 Elm Street, Gloucester, Mass. 01930, telephone 617-3600.

(n) *Secretary.* The Secretary of Commerce or a designee of the Secretary.

(o) *Vessel of the United States.* (1) A vessel documented or numbered by the Coast Guard under United States law; or

(2) A vessel, under five net tons, which is registered under the laws of any State.

§ 652.3 Foreign fishing.

Fishing for surf clams or ocean quahogs in the Fishery Conservation Zone by any vessel other than a vessel of the United States is prohibited.

§ 652.4 Restrictions.

(a) No person shall catch and retain on board any surf clam or ocean quahog:

(1) During closed seasons; or

(2) In closed areas as specified in these regulations; or

(3) On days of the week on which fishing for that species is not permitted.

(b)(1) Possession of surf clams or ocean quahogs, by any person aboard any fishing vessel engaging in those fisheries, in closed areas or more than 12 hours after a season closure announcement becomes effective pursuant to the provisions of section 652.6(c) shall be prima facie evidence that such clams or quahogs were taken in violation of the provisions of the Act and these regulations.

(2) Possession of surf clams, by any person aboard any fishing vessel engaging in the surf clam fishery, more than 12 hours after a weekly closure occurs under the provisions of section 652.7(a) shall be prima facie evidence that such surf clams were taken in violation of the Act and these regulations.

(c) No person shall possess, have custody of or control of, ship, transport, offer for sale, deliver for sale, sell, purchase, import, export or land, any surf clam, ocean quahog, or part thereof, which was taken in violation of the Act, these regulations, or any other regulations issued under the Act.

(d) No person engaging in the surf clam or ocean quahog fisheries as an owner or operator, or as a dealer, processor or buyer shall unload or cause to be unloaded, or sell or buy, any surf clam or ocean quahog whether on land or at sea, without preparing and submitting the documents required by section 652.13.

(e) No person shall: (1) Refuse to permit an authorized officer to board a fishing vessel subject to such a person's control for purposes of conducting any search, no matter where that vessel may be situated, in connection with the enforcement of the Act, these regulations, or any other regulations issued under the Act.

(2) Forcibly assault, resist, oppose, impede, intimidate, or interfere with any authorized officer in the conduct of any search or inspection described in subparagraph (1) of this paragraph;

(3) Resist a lawful arrest for any act prohibited by these regulations; or

(4) Interfere with, delay, or prevent, by any means, the apprehension or arrest of another person, knowing that such other person has commited any act prohibited by these regulations.

§ 652.5 Penalties.

Any person or vessel found to be in violation of these regulations shall be subject to the civil and criminal penalty provisions and forfeiture provisions prescribed in the Act and pertinent regulations.

§ 652.6 Catch quotas.

Catch quotas for the period from February 15, 1978 to September 30, 1979, for vessels of the United States permitted to fish for surf clams or ocean quahogs are as follows:

(a) *Surf clams:*

	Bushels
Feb. 15, 1978, through Mar. 31, 1978	175,000
Apr. 1, 1978, through June 30, 1978	550,000
July 1, 1978, through Sept. 30, 1978	550,000
Oct. 1, 1978, through Dec. 31, 1978	350,000
Jan. 1, 1979, through Mar. 31, 1979	350,000
Apr. 1, 1979, through June 30, 1979	550,000
July 1, 1979, through Sept. 30, 1979	550,000

(1) If the actual catch of surf clams in any quarter falls more than 5,000 bushels short of the specified quarterly quota, the Regional Director shall add the amount of the shortfall to the next succeeding quarterly quota. If the actual catch of surf clams in any quarter exceeds the specified quarterly quota, the Regional Director shall subtract the amount of the excess from the next succeeding quarterly quota.

(2) The Assistant Administrator shall publish a notice in the FEDERAL REGISTER whenever the Regional Director adjusts the quarterly quota of surf clams under subparagraph (1) above.

(b) *Ocean Quahogs:*

	Bushels
Feb. 15, 1978, to Dec. 31, 1978	2,625,000
Jan. 1, 1979, to Sept. 30, 1979	2,250,000

If necessary, the Regional Director may establish quarterly quotas for ocean quahogs, and, in that event, the Assistant Administrator shall publish a notice of such quarterly quotas in the FEDERAL REGISTER.

(c) *Closure.* If the Regional Director determines (based on logbook reports, processor reports, vessel inspections, or other information), that the quota of surf clams or ocean quahogs for any time period indicated in § 652.6 will be exceeded, the Assistant Administrator shall publish a notice in the FEDERAL REGISTER stating the determination and, if necessary, stating a date and time for closure of the surf clam or ocean quahog fishery for the remainder of the time period. The Regional Director shall send notice of the action, by certified mail, to each surf clam or ocean quahog processor and to each surf clam or ocean quahog vessel owner or operator. No person shall fish for surf clams or ocean quahogs after the date and time specified in the notice for closure of that fishery.

§ 652.7 Effort restriction.

(a) *Surf clams.* (1) Fishing for surf clams shall be permitted only four days per week, from 12:01 a.m. Monday to 12 midnight Thursday, except as adjusted under subparagraphs (2) and (3) below. Fishing for any part of a day will be counted as one day of fishing. In this paragraph, "fishing" means the actual or attempted catching of fish, but not activities in preparation for fishing, such as traveling to or from the fishing grounds.

(2) Prior to the beginning of each quarter specified in Section 652.6(a), the Regional Director shall determine what level of effort will allow for the continued catch of surf clams throughout the entire quarter. This determination will be based on historical catch records with emphasis given to the data from the previous completed quarter. If the Regional Director determines that a reduction in the number of days during which fishing for surf clams will be permitted is necessary, he may make the reduction.

Each quarterly determination will be made in a timely manner, and published in the FEDERAL REGISTER.

(3) When 50 percent of the quarterly quota (as adjusted under subparagraph 652.6(a)(1)) of surf clams has been caught, the Regional Director shall estimate whether the total catch of surf clams during that quarter will exceed the quarterly quota. If the Regional Director determines that the quarterly quota probably will be exceeded, he may reduce the number of days per week during which fishing for surf clams is permitted during that quarter. If the Regional Director determines that the quarterly quota probably will not be exceeded, he may increase the number of days per week during which fishing for surf clams is permitted during that quarter.

(4) If less than 25 percent of the quarterly quota has been caught during the first 45 days of any quarter, the Regional Director may increase the number of days per week during which fishing for surf clams is permitted for that quarter if he determines that the reduced catch rate is not caused by a decline in abundance of stocks of surf clams.

(5) The Assistant Administrator shall publish a notice in the FEDERAL REGISTER of any reduction or increase in days per week during which fishing for surf clams is permitted. The reduction or increase shall take effect immediately upon publication in the FEDERAL REGISTER. The Regional Director shall also send notice of the change by certified mail to each surf clam or ocean quahog processor in the fishery and to each surf clam or ocean quahog vessel owner or operator.

(b) *Ocean quahogs.* (1) Fishing for ocean quahogs shall be permitted seven days per week.

(2) When 50 percent of the quota of ocean quahogs for any time period indicated in section 652.6(b) above has been caught, the Regional Director shall estimate whether the total catch of ocean quahogs during the applicable time period will exceed the quota for that time period. If the Regional Director determines that the quota probably will be exceeded, he may reduce the number of days per week during which fishing for ocean quahogs is permitted for the remainder of that time period.

(3) The Assistant Administrator shall publish a notice in the FEDERAL REGISTER of any reduction in days per week during which fishing for ocean quahogs is permitted. The reduction shall take effect immediately upon publication in the FEDERAL REGISTER. The Regional Director shall also send notice of any reduction by certified mail to each surf clam or ocean quahog processor in the fishery and to each surf clam or ocean quahog vessel owner or operator.

§ 652.8 Closed areas.

(a) It shall be unlawful to fish for surf clams in any designated closed surf clam area.

(b) Areas may be closed to surf clam and ocean quahogs fishing upon a determination by the Regional Director (based on logbook entries, processors' reports, surveys cruises, or other information) that the area contains surf clams of which:

(1) 60 percent or more are smaller than 4½ inches in size; and

(2) Not more than 15 percent are larger than 5½ inches in size. (Sizes shall be measured at the longest dimension of the surf clam.)

(3) The Regional Director shall publish notice of any closed area in the FEDERAL REGISTER. The Regional Director shall send notice of the closed area, by certified mail, to each surf clam or ocean quahog processor and to each surf clam or ocean quahog vessel owner or operator.

§ 652.9 Vessel moratorium.

(a) A moratorium which became effective on November 17, 1977, prohibits the entry of additional vessels into the surf clam fishery.

(b) The moratorium shall remain in effect until November 16, 1978, unless the Secretary determines, after public hearings and consultation with the Mid-Atlantic, New England, and South Atlantic Fishery Management Councils, to terminate the moratorium at an earlier date.

§ 652.10 Vessel permits.

(a) A vessel owner or operator must obtain a permit in order to:

(1) Conduct a directed fishery for surf clams or ocean quahogs within the FCZ; or

(2) Land any surf clams or ocean quahogs or part thereof caught within the FCZ.

(b) A vessel is eligible for a surf clam permit if it meets any of the following criteria:

(1) The vessel has landed surf clams in the course of conducting a directed fishery for surf clams between November 18, 1976, and November 17, 1977; or

(2) The vessel was under construction for, or was being re-rigged for, use in the directed fishery for surf clams on November 17, 1977. For the purpose of this subparagraph, "under construction" means that the keel had been laid, and "being re-rigged" means physical alteration of the vessel or its gear had begun to transform the vessel into one capable of fishing commercially for surf clams; or,

(3) The vessel is replacing a vessel of substantially similar harvesting capacity which involuntarily left the surf clam fishery during the moratorium, and both the entering and replaced vessels are owned by the same person.

(c) Permit applications may be obtained by contacting the Regional Director in Gloucester, Massachusetts. The owner or operator may apply for a permit by submitting in duplicate an application form supplied by the Regional Director containing the following information:

(1) Names, addresses, and telephone numbers of the owner and operator;

(2) The name of the vessel;

(3) The vessel's United States Coast Guard documentation number or State license number;

(4) Engine and pump horsepower;

(5) Homeport of the vessel;

(6) Directed fishery or fisheries;

(7) Fish hold capacity (in "cages" or bushels);

(8) Dredge size;

(9) Amount of surf clams and ocean quahogs landed in the past year (in bushels, if applicable);

(10) Number of fishing trips in the past year; and

(11) Date of beginning of construction or re-rigging (if applicable).

(d) The Regional Director shall issue a permit for each eligible vessel for which an application is submitted. The eligibility of a vessel to fish for surf clams will be determined consistent with this subsection. There will be no fee for a new permit; a lost or mutilated permit will be replaced at a cost of $25.

(e) Any applicant denied a permit by the Regional Director may appeal to the Assistant Administrator for review of the denial. Any of the following grounds may form the basis for the review:

(1) Applicant believes denial was in error;

(2) Applicant was prevented by circumstances beyond his control from meeting relevant criteria;

(3) Applicant has new or additional information which might change the initial decision;

(4) Applicant can show that significant and unusual hardship will result from the denial.

(f) The appeal may be presented, at the option of the applicant, at a hearing before a person appointed by the Assistant Administrator to hear the appeal.

(g) The decision of the Assistant Administrator shall be the final decision of the Department of Commerce.

(h) A permit is valid only for the vessel for which it is issued. The permit must be carried, at all times, on board the vessel for which it is issued, and must be maintained in legible condition. The permit, the vessel, its gear and catch shall be subject to inspection by any authorized official.

(i) Except as provided in subparagraph (i)(2), a permit shall expire:

(1) When the owner or operator retires the vessel from the fishery (it shall be a rebuttable presumption that

failure to land any surf clams or ocean quahogs for 52 consecutive weeks constitutes retirement from the fishery); or

(2) When the ownership of the vessel changes; however, the Assistant Administrator may authorize continuation of a vessel permit for the surf clam fishery, if he determines that expiration of the vessel permit would cause substantial economic hardship to a person who had participated in the surf clam fishery for at least one year immediately prior to November 17, 1977. Petitions for continuation of a permit must be addressed to the Assistant Administrator and contain sufficient evidence to support the claim of economic hardship.

§ 652.11 Vessel identification.

(a) Each fishing vessel 25 feet in length or greater subject to these regulations shall display its official number on both sides of the deckhouse or hull, and on an appropriate weather deck. Vessels under 25 feet in length do not need to display any number. The official number is that number issued by the U.S. Court Guard associated with the documentation of the fishing vessel or the official number issued by a State or the U.S. Coast Guard for undocumented vessels.

(b) Such markings shall be at least eighteen (18) inches in height and be legibly painted in a contrasting color.

(c) The operator of each vessel shall:

(1) Keep the required markings clearly legible and in good repair; and

(2) Insure that no part of the vessel, its rigging or its fishing gear obstructs the view of the markings from an enforcement vessel or aircraft.

(d) In lieu of (a) and (b) above, vessels licensed under New Jersey law may use the appropriate vessel identification markings established by that State.

§ 651.12 Facilitation of enforcement.

(a) The owner or operator of any vessel subject to these regulations shall immediately comply with instructions issued by authorized officers to facilitate boarding and inspection of the vessel for purposes of enforcing the Act and these regulations.

(b) Upon being approached by a Coast Guard cutter or aircraft, or other vessel or aircraft authorized to enforce the Act, the vessel shall be alert for signals conveying enforcement instructions. The following signals extracted from the International Code of Signals are among those which may be used:

(1) "L" meaning "You should stop your vessel instantly;"

(2) "SQ3" meaning "You should stop or heave to; I am going to board you;" and

(3) "AA AA AA etc." which is the call to an unknown station; to which the signalled vessel should respond by illuminating the vessel identification required by § 652.11 above.

(c) A vessel signalled to stop or heave to for boarding shall:

(1) Stop immediately and lay to or maneuver in such a way as to permit the authorized officer and his party to come aboard;

(2) Provide a ladder for the authorized officer and his party;

(3) When necessary to facilitate the boarding, provide a man rope, safety line and illumination for the ladder; and

(4) Take such other actions as necessary to ensure the safety of the authorized officer and his party and to facilitate the boarding.

§ 652.13 Reports and records.

(a) *Dealers.* (1) All persons who buy surf clams or ocean quahogs from vessels engaged in the surf clam or ocean quahog fishery shall provide to the Regional Director on a weekly basis the following information, on forms to be supplied by the Regional Director:

(i) Dates of purchases;

(ii) Number of bushels purchased, by species;

(iii) Name and permit number of the vessel from which surf clams or ocean quahogs are landed or received;

(iv) Price per bushel, by species;

(v) Mailing address of dealer or processing plant;

(vi) Size distribution of surf clams and ocean quahogs purchased, by species on a percentage basis;

(vii) Meat yield per bushel by species;

(viii) Number of dealer or processing plant employees;

(ix) Number of employees processing surf clams and ocean quahogs; and

(x) Total payroll of surf clam and ocean quahog processing.

(2) All persons purchasing or receiving any surf clams or ocean quahogs at sea for transport to any port of the United States must maintain and provide to the Regional Director on a weekly basis records identical to those required under subparagraph (a)(1) of this paragraph.

(b) *Owners and operators.* (1) The owner or operator of any vessel landing surf clams or ocean quahogs must maintain an accurate log for each fishing trip, including:

(i) Name and permit number of vessel;

(ii) Total amount in bushels of each species taken;

(iii) Date(s) caught;

(iv) Time at sea;

(v) Duration of fishing time;

(vi) Locality fished;

(vii) Crew size;

(viii) Crew share by percentage;

(ix) Landing port;

(x) Date sold;

(xi) Price per bushel; and

(xii) Buyer.

(2) The owner or operator shall make the log available for inspection by an authorized official at any time during or after a trip.

(3) The owner or operator shall keep each logbook for one year after the date of the last entry in the log.

(4) The owner or operator shall submit weekly logbook reports to the Regional Director, on forms supplied by the Regional Director.

(5) The Assistant Administrator may revoke, modify or suspend the permit of a vessel whose owner or operator falsifies or fails to submit the records and reports prescribed by this section, in accordance with the provisions of 50 CFR Part 621.

[FR Doc. 78-4517 Filed 2-16-78; 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.

[1505-01]

DEPARTMENT OF AGRICULTURE

Food Safety and Quality Service

[7 CFR Part 2853]

MEATS, PREPARED MEATS, AND MEAT PRODUCTS

Grading Certification and Standards

Correction

In FR Doc. 78-2065, appearing at page 3140 in the issue for Monday, January 23, 1978, on page 3142, in the center column, in the second full paragraph, the 19th and 20th lines reading, "The only reason that carcass No. 2 graded after removal of these fats.", should be deleted.

[3410-34]

Animal and Plant Health Inspection Service

[9 CFR Part 92]

IMPORTATION OF HORSES

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: This document would permit the unrestricted entry of certain horses into the United States from the United Kingdom, Ireland, and France which are countries affected with contagious equine metritis (CEM) when specific conditions are met. This action is needed to provide for the importation of horses from CEM-affected countries when this can be done without risk of introducing CEM into the United States. The effect of this action would be to provide for the importation of certain horses from CEM-affected countries.

DATE: Comments on or before March 20, 1978.

ADDRESS: Written comments to Deputy Administrator, USDA, APHIS, VS, Room 821, Federal Building, 6505 Belcrest Road, Hyattsville, Md. 20782.

FOR FURTHER INFORMATION CONTACT:

Dr. D. E. Herrick, USDA, APHIS, VS, Room 815, Federal Building, Hyattsville, Md. 20782, 301-436-8170.

SUPPLEMENTARY INFORMATION: Notice is hereby given in accordance with the administrative procedure provisions in 5 U.S.C. 553, that, pursuant to section 2 of the Act of February 2, 1903, as amended, and sections 4 and 11 of the Act of July 2, 1962 (21 U.S.C. 111, 134c, and 134f), the Animal and Plant Health Inspection Service is considering amending Part 92, Title 9, Code of Federal Regulations.

Section 92.2(i)(1) of the regulations (9 CFR 92.2(i)(1)) prohibits the importation of certain horses from the countries of Australia, Ireland, France, and the United Kingdom due to the existence of CEM in such countries.

Section 92.2(i)(2) of the regulations exclude geldings, weanlings or yearlings whose ages are certified on the import health certificate from the requirements of the applicable regulations. It also allows the temporary importation of horses into the United States from CEM-affected countries for a period not to exceed 90 days for purposes other then breeding if accompanied by an import permit, and a certificate stating that the horses have not been on any breeding premises since reaching two years of age, and if they are restricted to specified premises while in the United States.

On-site inspections have been made of facilities and records of individual animal histories of certain horses in the United Kingdom, Ireland, and France, and it appears that sufficient specific information is available on certain horses in those countries to enable reliable certifications to be made that will establish the fact that since reaching two years of age they have not been on any premises where breeding is carried out; and that this certification, together with a series of three negative cultures for CEM at least 7 days apart, and an import permit should provide satisfactory assurances that such horses imported from those countries, are not likely to introduce CEM into the United States.

Due to physiological changes in the system of a horse and the CEM organism, it is not possible to detect the CEM organism in a horse at any given place at any given time. Therefore, it is proposed that culturing three separate swabbings from each area of a horse where it is believed most likely that the CEM organism may reside would provide a reasonable assurance of detecting the presence of the organism in a horse. It should also be noted that with regard to female horses, it is proposed that one of the three culture specimens must be taken at the time of estrus. This is being proposed because it has been established that it is easier to detect the CEM organism at that time as opposed to periods other than estrus.

Further, the docket proposes that the specimens be cultured at laboratories approved by the National Veterinary Service of the country of origin to conduct cultures for CEM. The Department believes that it can rely on the countries involved to require accurate culturing procedures to determine the presence of CEM.

The docket also proposes that the last of the tests be performed within 30 days of the date of importation. This is being proposed because it is believed that the results of the test would closely approximate the health status of the horse on the date of importation. Additionally, it should afford time to the importer to make appropriate shipping arrangements for the horse.

Therefore, it is proposed to exempt from the prohibition in §92.2(i)(1) of the regulations, those horses which are accompanied by an import permit and certificate stating that the horses have had three negative cultures for CEM taken at least seven days apart. In order to clarify how and what kind of an import permit will be necessary, §92.4 would be amended to include horses from countries affected with CEM listed in §92.2(i)(1) of the regulations. These proposed provisions apply to the United Kingdom, Ireland, and France. They are not applicable to Australia since on-site inspections have not been made in that country to determine whether health history records exist or are adequate to rely upon in making a certification that a horse has not been on a breeding premises since reaching two years of age.

Additionally, the phrase "officially found" in §92.17 of the regulations would be changed to "found by an official of the Veterinary Services of the national government of the country where such premises are located" for the purpose of clarification.

This action is to provide for the importation of horses from certain CEM-affected countries in a manner that does not create an undue risk of introducing CEM into the United States.

Accordingly, it is proposed that Part 92, Title 9, Code of Federal Regulations, would be amended in the following respects:

1. In §92.2, paragraph (i) would be amended to add subparagraph (2)(iv) to read:

§ 92.2 General prohibitions; exceptions.

* * * * *

(i) * * *

(2) * * *

(iv) Horses imported for permanent entry from the United Kingdom, Ireland, and France, if such animals are accompanied by import permits in accordance with § 92.4 of the regulations and are accompanied by a certificate signed by an official of the National Veterinary Service of such country stating that:

(A) Individual health history records that he certifies to be true and factual show that since reaching two years of age such horses have not been on premises where breeding was carried out;

(B) For fillies and mares, that three negative cultures for CEM were conducted from specimens collected from each of the mucosal surfaces of the urethral and clitoral fossa, cervix, and uterus for each culture, at intervals of no less than 7 days, that one culture specimen was collected at time of estrus, and that the last of these tests was conducted within 30 days of the date of exportation;

(C) For male colts and stallions, that three negative cultures were conducted from specimens collected from each of the surfaces of the urethral fossa, the urethra and the penile sheath for each culture at intervals of no less than seven days, and that the last of these tests was conducted within 30 days of the date of exportation; and

(D) At the time each specimen for culturing is taken, a licensed veterinarian of such country has clinically examined such horses and has certified that such horses are clinically free of evidence of CEM.

All specimens shall be cultured in a laboratory approved by the National Veterinary Service of such country to conduct cultures for CEM.

§ 92.4 [Amended]

2. The heading of § 92.4 would be amended by inserting the phrase "horses from countries affected with CEM" immediately after "swine" and prior to "poultry."

3. The first sentence in § 92.4 (a)(1) and (a)(3) and the fourth sentence in § 92.4(b) would be amended by inserting the phrase "horses from countries listed in § 92.2(i)(1) of the regulations" immediately after the term "poultry" and immediately preceding the term "animal semen."

4. In § 92.17, that part of the first sentence after the fourth semicolon and preceding the first proviso would be amended to read:

§ 92.17 Horses, certification and accompanying equipment.

* * *; and except as provided in § 92.2(i)(2)(i) and § 92.2 (i)(2)(iv), the horses have not been in any country listed in § 92.2(i)(1) as affected with CEM during the 12 months immediately prior to their importation into the United States; they have not been on any premises at any time during which time such premises were found by an official of the Veterinary Services of the national government of the country where such premises are located, to be affected with CEM; that the horses have not been bred by or bred to any horse from an affected premises; and that they have had no other contact with horses that have been found to be affected with CEM or with horses that were imported from countries affected with CEM.* * *

All written submissions made pursuant to this notice will be made available for public inspection at the Federal Building, 6505 Belcrest Road, Room 821, Hyattsville, Md. 20782, 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 1.27(b)).

Comments submitted should bear a reference to the date and page number in this issue of the FEDERAL REGISTER.

Done at Washington, D.C., this 14th day of February 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. 78-4453 Filed 2-16-78; 8:45 am]

[3410-34]

[9 CFR Part 113]

VIRUSES, SERUMS, TOXINS AND ANALOGOUS PRODUCTS

Miscellaneous Amendments; Proposed Rulemaking

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

ACTION: Proposed rule.

SUMMARY: This proposed amendment would add two new sections to the regulations under the Virus-Serum-Toxin Act regarding the requirements for purify, safety, potency, and efficacy to be met by all biological products containing Salmonella Choleraesuis Bacterin and Salmonella Dublin Bacterin. At the present time, requirements appear in each Outline of Production for such products filed with Veterinary Services. This proposed amendment would make uniform requirements available to all licensees.

DATE: Comments must be received on or before April 18, 1978.

ADDRESS: Interested parties are invited to submit written data, views, or arguments regarding the proposed regulation 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: Standard Requirements consist of test methods, procedures, and criteria established by Veterinary Services for evaluating biological products for purity, safety, potency, and efficacy. Until such Standard Requirements are developed by Veterinary Services and are codified in the regulations (9 CFR Part 113), the test methods, procedures, and criteria to be used in the evaluation of a product are developed by the licensee and are written into the applicable Outline of Production which is requred to be filed with Veterinary Service.

When Standard Requirements for a biological product have been developed by Veterinary Services, they are proposed for codification in the regulations. Such codification assures uniformity and general availability of such Standard Requirements to all licensees and to the general public. This proposed amendment contains the Standard Requirements for evaluating all licensed products containing Salmonella Choleraesuis Bacterin and Salmonella Dublin Bacterin.

The first letter of each word in the heading for §§ 113.107 and 113.108 shall be capitalized. Part 113 would be amended by adding two new sections to read:

§ 113.107 Salmonella Choleraesuis Bacterin.

Salmonella Choleraesuis Bacterin shall be prepared from a culture of *Salmonella choleraesuis* which has been inactivated and is nontoxic. Each serial of biological product containing *Salmonella choleraesuis* fraction shall meet the applicable requirements in 9 CFR 113.85 and shall be tested for purity, safety, and potency as prescribed in this section. A serial found unsatisfactory by any prescribed test shall not be released.

(a) *Purity test.* Final container samples of completed product shall be tested for viable bacteria and fungi as provided in 9 CFR 113.26.

(b) *Safety test.* Bulk or final container samples of completed product from

each serial shall be tested for safety as provided in 9 CFR 113.33(b).

(c) *Potency test.* Bulk or final container samples of completed product from each serial shall be tested for potency using the mouse test provided in this paragraph. A mouse dose shall be 1/20 of the least dose recommended on the label for other animals which shall not be less than 2 ml.

(1) The ability of the bacterin being tested (Unknown) to protect mice shall be compared with a Standard Reference Bacterin (Standard) which is either supplied by or acceptable to Veterinary Services.

(2) At least three fivefold dilutions shall be made with the Standard and the same fivefold dilution shall be made for each Unknown. The dilutions shall be made in Phosphate-Buffered Saline.

(3) For each dilution of the Standard and each dilution of an Unknown, a group of at least 20 mice, each weighing 16 to 22 grams, shall be used. Each mouse in a group shall be injected intraperitoneally with one mouse dose of the appropriate dilution. Each mouse shall be revaccinated on day 14, using the same schedule.

(4) Each of 20 vaccinated mice per group shall be challenged intraperitoneally 7 to 10 days after the second vaccination with a 0.25 ml dose containing 10-1,000 mouse LD_{50} as determined by titration of a suitable culture of *Salmonella choleraesuis.* All survivors in each group of mice shall be recorded 14 days postchallenge.

(5) Test for valid assay: At least two dilutions of the Standard shall protect more than 0 percent and two dilutions shall protect less than 100 percent of the mice injected. The lowest dilution of the Standard shall protect more than 50 percent of the mice. The highest dilution of the Standard shall protect less than 50 percent of the mice.

(6) The relative potency (RP) of the Unknown is determined by comparing the 50 percent endpoint dilution (highest bacterin dilution protecting 50 percent of the mice) of the Unknown with that of the Standard by the following formula:

RP=Reciprocal of 50 percent endpoint dilution of Unknown/Reciprocal of 50 percent endpoint dilution of Standard.

(7) If the RP of the Unknown is less than 0.50, the serial being tested is unsatisfactory.

(8) If the 50 percent endpoint of an Unknown in a valid test cannot be calculated because the lowest dilution does not exceed 50 percent protection, that serial may be retested: *Provided,* That if the Unknown is not retested or if the protection provided by the lowest dilution of the Standard exceeds the protection provided by the lowest dilution of the Unknown by 6 mice or more, the serial being tested is unsatisfactory.

(9) If the 50 percent endpoint of an Unknown in a valid test cannot be calculated because the highest dilution exceeds 50 percent protection, the Unknown is satisfactory without additional testing.

§ 113.108 Salmonella Dublin Bacterin.

Salmonella Dublin Bacterin shall be prepared from a culture of *Salmonella dublin* which has been inactivated and is nontoxic. Each serial of biological product containing *Salmonella dublin* fraction shall meet the applicable requirements in 9 CFR 113.85 and shall be tested for purity, safety, and potency as prescribed in this section. A serial found unsatisfactory by any prescribed test shall not be released.

(a) *Purity test.* Final container samples of completed product shall be tested for viable bacteria and fungi as provided in 9 CFR 113.26.

(b) *Safety test.* Bulk or final container samples of completed product from each serial shall be tested for safety as provided in 9 CFR 113.33(b).

(c) *Potency test.* Bulk or final container samples of completed product from each serial shall be tested for potency using the mouse test provided in this paragraph. A mouse dose shall be 1/20 of the least dose recommended on the label for other animals which shall not be less than 2 ml.

(1) The ability of the bacterin being tested (Unknown) to protect mice shall be compared with a Standard Reference Bacterin (Standard) which is either supplied by or acceptable to Veterinary Services.

(2) At least three tenfold dilutions shall be made with the Standard and the same tenfold dilutions shall be made for each Unknown. The dilutions shall be made in Phosphate-Buffered Saline.

(3) For each dilution of the Standard and each dilution of an Unknown, a group of at least 20 mice, each weighing 16 to 22 grams, shall be used. Each mouse in a group shall be injected intraperitoneally with one mouse dose of the appropriate dilution. Each mouse shall be revaccinated on day 14, using the same schedule.

(4) Each of 20 vaccinated mice per group shall be challenged intraperitoneally 7 to 10 days after the second vaccination with a 0.25 ml dose containing 1,000-100,000 mouse LD_{50} as determined by titration of a suitable culture of *Salmonella dublin.* All survivors in each group of mice shall be recorded 14 days postchallenge.

(5) Test for valid assay: At least two dilutions of the Standard shall protect more than 0 percent and two dilutions shall protect less than 100 percent of the mice injected. The lowest dilution of the Standard shall protect more than 50 percent of the mice. The highest dilution of the Standard shall protect less than 50 percent of the mice.

(6) The relative potency (RP) of the Unknown is determined by comparing the 50 percent endpoint dilution (highest bacterin dilution protecting 50 percent of the mice) of the Unknown with that of the Standard by the following formula:

RP=Reciprocal of 50 percent endpoint dilution of Unknown/Reciprocal of 50 percent endpoint dilution of Standard.

(7) If the RP of the Unknown is less than 0.30, the serial being tested is unsatisfactory.

(8) If the 50 percent endpoint of an Unknown in a valid test cannot be calculated because the lowest dilution does not exceed 50 percent protection, that serial may be retested: *Provided,* That if the Unknown is not retested or if the protection provided by the lowest dilution of the Standard exceeds the protection provided by the lowest dilution of the Unknown by 6 mice or more, the serial being tested is unsatisfactory.

(9) If the 50 percent endpoint of an Unknown in a valid test cannot be calculated because the highest dilution exceeds 50 percent protection, the Unknown is satisfactory without additional testing.

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 13th day of February 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. 78-4432 Filed 2-16-78; 8:45 am]

[3128-01]

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[10 CFR Parts 210, 211, 212]

KEROSENE-BASE JET FUEL DECONTROL

Advance Notice of Proposed Rulemaking and Public Hearing

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Advance notice of proposed rulemaking and public hearing.

SUMMARY: The Economic Regulatory Administration ("ERA") of the Department of Energy ("DOE") is considering proposing amendments to

exempt kerosene-base jet ("kerojet") fuel from the Mandatory Petroleum Allocation and Price Regulations. The ERA is issuing this advance notice of proposed rulemaking and public hearing to obtain comment on whether its findings justify such an exemption. The DOE is concurrently issuing its Preliminary Findings and Views Concerning the Exemption of Kerojet Fuels from the Mandatory Petroleum Allocation and Price Regulations ("Preliminary Findings"), copies of which are available to the public. If the DOE concludes that kerojet fuel should be exempted from regulation, after it has considered all public comments, then the DOE will transmit a decontrol proposal to the Federal Energy Regulatory Commission ("FERC") for consideration by the FERC.

DATES: Comments by March 27, 1978. Hearing: Thursday, March 23, 1978. Requests to speak by: March 10, 1978.

ADDRESSES: Send comments and requests to speak to Public Hearing Management, Box RM, 2000 M Street NW., Room 2313, Washington, D.C. 20461.

Hearing: 9:30 a.m., Thursday, March 23, 1978, 2000 M Street NW., Room 2105, Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

Deanna Williams (DOE Reading Room), 12th and Pennsylvania Avenue NW., Room 2107, Washington, D.C. 20461, 202-566-9161.

Ed Vilade (Media Relations), 12th and Pennsylvania Avenue NW., Room 3104, Washington, D.C. 20461, 202-566-9833.

Gerald P. Emmer (Economic Regulatory Administration), 2000 M Street NW., Room 2304, Washington, D.C. 20461, 202-254-7209.

Thomas B. DePriest (Office of General Counsel), 12th and Pennsylvania Avenue NW., Room 5134, Washington, D.C. 20461, 202-566-9565.

SUPPLEMENTARY INFORMATION:

I. Introduction,
II. Exemption Procedure,
III. Proposed Exemption, and
IV. Hearing and Comment Procedures.

I. Introduction

Following a preliminary analysis of the impact of the regulation of kerojet fuel pursuant to the regulations promulgated under the Emergency Petroleum Allocation Act of 1973, as amended, Pub. L. 93-159 ("EPAA"), the DOE has tentatively concluded that this product should be exempted from the Mandatory Petroleum Allocation and Price Regulations (10 CFR Parts 210, 211, and 212). Therefore, by this advance notice of proposed rulemaking and public hearing, the ERA is considering proposing two amendments to be submitted as energy actions to the Congress, in accordance with the provisions of section 12 of the EPAA, section 551 of the Energy Policy and Conservation Act, as amended, Pub. L. 94-163 ("EPCA"), and section 102 of the Energy Conservation and Production Act, as amended, Pub. L. 94-385 ("ECPA") to exempt kerojet fuel from the regulations. The amendments would convert the regulations to standby authority with respect to the pricing and allocation of kerojet fuel. This advance notice of proposed rulemaking and public hearing is issued concurrently with the Preliminary Findings of the DOE. On this date, the ERA has also issued an advance notice of proposed rulemaking and related Preliminary Findings as to the exemption of aviation gasoline from the price and allocation regulations.

The DOE requests public comment with respect to the Preliminary Findings. If, after it has fully considered all comments received during the public comment period, the DOE concludes that its preliminary findings and views are correct, the Secretary of Energy or his designee will then transmit to the FERC, for consideration pursuant to section 402(c)(1) and 404 of the Department of Energy Organization Act, Pub. L. 95-91 ("DOE Act"), a notice of proposed rulemaking setting forth the proposed exemptions. After receiving public comments on a proposed exemption, the FERC may, under section 404(b) of the DOE Act, concur in the adoption of the proposed exemptions, concur in the adoption only with such changes as it may recommend, or recommend that the exemptions not be adopted. Ultimately, if the FERC does concur, the Secretary of Energy may submit to the Congress (with any changes recommended by the FERC) two energy actions to exempt kerojet fuel from regulation.

During 1976, after extensive hearings on each proposal, the Federal Energy Administration ("FEA") exempted from the mandatory Petroleum Allocation and Price Regulations a number of petroleum products pursuant to section 12 of the EPAA. On June 1, 1976, the exemption of residual fuel oil became effective (41 FR 13896, April 1, 1976); on July 1, 1976, middle distillates were so exempted (41 FR 24516 and 24518, June 16, 1976). Effective September 1, 1976, naphthas, gas oils, greases, lubricants, certain petrochemical feedstocks and other specialty products were exempted (41 FR 30096, July 22, 1976); and on October 1, 1976, naphtha-base jet fuel was exempted (41 FR 40451 and 40452, September 20, 1976). In each case, the FEA was able to make the required statutory findings in support of the exemption. Furthermore, each exemption was submitted to and not disapproved by the Congress pursuant to the review procedures set forth in section 551 of the EPCA. In addition, the FEA issued a notice of proposed rulemaking to exempt motor gasoline (42 FR 40915, August 12, 1977). However, in contemplation of the transfer of authority from the FEA to the newly-established DOE, effective October 1, 1977, the FEA deferred any action on the motor gasoline proposal to afford the FERC an opportunity to consider the proposal under section 402(c) of the DOE Act (42 FR 54423, October 6, 1977). The FERC has not yet made its recommendations to the Secretary, but it has communicated to the Secretary its tentative determination to concur in the proposal, subject to certain preliminary recommendations on which it solicited the Secretary's views.

II. Exemption Procedure

Pursuant to section 455 of the EPCA, only one refined product or product category may be exempted from DOE regulations in the same proceeding, and an exemption is not limited to 90 days in length as was previously required. The ERA may propose to exempt an oil or refined product category from the regulations prescribed under section 4(a) of the EPAA if the DOE determines that the exemption is consistent with the attainment of the public policy objectives specified in section (4)(b)(1) of the EPAA. Those objectives are as follows:

A. Protection of public health (including the production of pharmaceuticals), safety and welfare (including maintenance of residential heating such as individual homes, apartments and similar occupied dwelling units), and the national defense;

B. Maintenance of all public services (including facilities and services provided by municipally, cooperatively, or investor owned utilities or by any State or local government or authority, and including transportation facilities and services which serve the public at large);

C. Maintenance of agricultural operations, including farming, ranching, dairy and fishing activities, and services directly related thereto;

D. Preservation of an economically sound and competitive petroleum industry; including the priority needs to restore and foster competition in the producing, refining, distribution, marketing, and petrochemical sectors of such industry, and to preserve the competitive viability of independent refiners, small refiners, nonbranded independent marketers, and branded independent marketers;

E. The allocation of suitable types, grades, and quality of crude oil to re-

fineries in the United States to permit such refineries to operate at full capacity;

F. Equitable distribution of crude oil, residual fuel oil, and refined petroleum products at equitable prices among all regions and areas of the United States and sectors of the petroleum industry, including independent refiners, small refiners, nonbranded independent marketers, branded independent marketers, and among all users;

G. Allocation of residual fuel oil and refined petroleum products in such amounts and in such manner as may be necessary for the maintenance of, exploration for, and production or extraction of—

(i) Fuels, and

(ii) Minerals essential to the requirements of the United States, and for required transportation related thereto;

H. Economic efficiency; and

I. Minimization of economic distortion, inflexibility, and unnecessary intereference with market mechanisms.

Pursuant to section 12 of the EPAA, an amendment exempting crude oil, residual fuel oil, or a refined petroleum product with respect to a class of persons or transactions, or with respect to any market level, must be submitted to the Congress as an energy action before it takes effect. The exemption will become effective if the amendment is not disapproved by either House of Congress within 15 days following its submission for Congressional review under section 551 of the EPCA.

Section 12 of the EPAA further provides that any amendment submitted to Congress which proposes to exempt crude oil (if permissible under and consistent with the requirements and limitations of section 8 of the EPAA), residual fuel oil, or any refined petroleum product from DOE allocation regulations must be accompanied by a finding that the oil or product is no longer in short supply and that the exemption would not have an adverse impact on the supply of any other oil or product. A proposed exemption for DOE price regulations must be accompanied by findings that competition and market forces would provide adequate protection for the consumer, and that such amendment would not result in inequitable prices for any class of user. An exemption amendment submitted to the Congress must also be accompanied by a DOE analysis of the potential economic impact of such amendment.

Any oil or refined petroleum product which is exempted from the DOE regulation under section 4(a) of the EPAA is subject to the reimposition of price and allocation controls if the DOE determines that reimposition is necessary for and consistent with the objectives specified in EPAA section 4(b)(1). Pursuant to section 12(f) of the EPAA, subsequent reexemption of that oil or refined petroleum product would not be subject to Congressional review.

In addition, section 102 of the ECPA prohibits the Secretary of Energy from submitting to the Congress as one energy action an amendment proposing exemption of any oil, refined petroleum product, or refined product category from both the allocation and pricing regulations. However, the DOE may concurrently submit to the Congress an energy action relating to price together with an energy action relating to allocation of the same oil, refined petroleum product, or refined product category.

III. Proposed Exemption

As section 12 (c)(2) of the EPAA requires that an exemption amendment apply to only one refined petroleum product or one refined product category, we plan to propose the exemption of kerojet fuel from DOE price and allocation regulations as a single product. We are considering the exemption of kerojet fuel from both the Mandatory Petroleum Allocation Regulations and the Mandatory Petroleum Price Regulations because recent supplies and market conditions appear to justify an end to both types of controls.

For the purposes of this proposed exemption, kerojet fuel, as defined in DOE allocation regulations (10 CFR §211.142), is an "aviation turbine fuel," which "means all refined petroleum fuel designed to operate aircraft turbine engines. The basic specification is ASTM D-1655 * * *." The DOE price regulations (10 CFR §212.31) use slightly different language to explain that "aviation fuel (kerosene-type) means a relatively low freezing point distillate of the kerosene type and includes all kerosene products with an average gravity of 40.7° API and 10 percent to 90 percent distillation temperatures of 390° F. to 470° F. covered by ASTM D1655 specifications, and including JP-5 and other fuels meeting military specifications (MIL-T-5624G Amend. 1)."

We have tentatively concluded in our Preliminary Findings on the basis of currently available data that this exemption would be consistent with the objectives set forth in section 4(b)(1) of the EPAA, as amended by section 451 of the EPCA.

Our preliminary conclusion is that as long as supplies continue to be adequate, the continuation of allocation and price controls on kerojet fuel is unnecessary to protect the public health, safety and welfare, and the national defense (section 4(b)(1)(A)); the maintenance of all public services (section 4(b)(1)(B)); the maintenance of agricultural operations (section 4(b)(1)(C)); or the maintenance of exploration for and production or extraction of fuels and minerals (section 4(b)(1)(G)); Adequate supply and the positive effects of increased competition would also insure that an exemption would be consistent with the preservation of an economically sound and competitive petroleum industry (section 4(b)(1)(D)); the equitable distribution of crude oil, residual fuel oil and refined petroleum products at equitable prices (section 4(b)(1)(F)); economic efficiency (section 4(b)(1)(H)); and minimization of economic distortions, inflexibility, and interference with market mechanisms (section 4(b)(1)(I)). An exemption should have no adverse effect on the allocation of suitable crude oil to domestic refineries (section 4(b)(1)(E)). We emphasize that these conclusions are preliminary and invite you to submit specific data, views, and arguments with respect to the relationship between the objectives of the EPAA and the exemption contemplated by this notice. In formulating our final proposal, we will consider any further information received with respect to the compatibility of the exemption considered herein with these objectives.

Tentative conclusions as set forth in the Preliminary Findings include:

(1) Kerojet fuel is not in short supply.

(2) Exemption of kerojet fuel from the allocation and price regulations will not have an adverse impact on the supply of any other oil or refined petroleum product subject to the EPAA.

(3) Competition and market forces are adequate to protect consumers following exemption of kerojet fuel from regulation.

(4) Exemption of kerojet fuel from regulation will not result in inequitable prices for any class of user of kerojet fuel or other products.

The Preliminary Findings also indicate our tentative views concerning the potential economic effects of exempting kerojet fuel from the Mandatory Petroleum Allocation and Price Regulations. Since we anticipate no changes in the supply or demand as a result of an exemption, and anticipate only a small increase in price, we foresee no adverse state or regional effects. In particular, we expect no effect on any governmental units.

In addition, in a period of adequate supplies, we anticipate no adverse economic effects on the availability of consumer goods or services, the Gross National Product, competition, small business, or the supply and availability of energy resources as fuel or feedstock for industry. An exemption is likewise expected to have no adverse effect on employment or consumer prices. Our preliminary analysis concludes that, since supplies should remain adequate, there will be no effect of an exemption on the rate of

unemployment in the United States, on the Consumer Price Index, or on the implicit price deflator for the Gross National Product.

We have also determined that an exemption would not significantly affect the quality of the environment, and therefore no environmental impact statement is required under the National Environmental Policy Act, as amended, Pub. L. 91-190.

If kerojet fuel prices rise above a predetermined level after being decontrolled, we could reimpose price controls. We are considering monitoring kerojet fuel prices closely at both the retail and refiner levels and are particularly concerned as to the effects a shortage in supplies would have on prices. We are requesting that you submit comments as to whether a price monitoring system might be appropriate to disclose unwarranted price increases following decontrol of kerojet fuel, and also as to the most effective manner for implementing such a system.

IV. HEARING AND COMMENT PROCEDURES

Our specific preliminary findings and views on an exemption and the data and information in support of an exemption are fully set forth in our Preliminary Findings. To receive a copy of the Preliminary Findings, send your request to the DOE, Office of Communications and Public Affairs, Publications Distribution Center, Washington, D.C. 20461. Copies will also be available at the DOE Press Room, Room 3138, 1200 Pennsylvania Avenue NW., Washington, D.C.

The public hearing will begin at 9:30 a.m., e.s.t., on Thursday, March 23, 1978, in Room 2105, 2000 M Street NW., Washington, D.C., and will be continued if necessary at 9:30 a.m., e.s.t., Friday, March 24, 1978, at the same location. Any person who has an interest in this proceeding or who is a representative of a group or class of persons that has an interest in this proceeding may make a written request for an opportunity to make an oral presentation. Your request should be directed to Public Hearing Management, Box RM, Room 2313, 2000 M Street NW., Washington, D.C. 20461, and must be received before 4:30 p.m., e.s.t., on March 10, 1978. You can hand-deliver your request between the hours of 8 a.m. and 4:30 p.m., Monday through Friday. Label your request both on the document and on the envelope "Exemption of Kerosene-Base Jet Fuel."

In your request, you should briefly describe your interest; if appropriate, state why you are a proper representative of a group or class of persons having such interest; and give a concise summary of the proposed oral presentation and a phone number where we may contact you through March 21, 1978. If we select you to be heard, we will tell you before 4:30 p.m., local time, March 14, 1978. You must submit one hundred copies of your statement to Public Hearing Management, Box RM, Room 2313, 2000 M Street NW., Washington, D.C. 20461, before 9 a.m., e.s.t. on March 20, 1978.

We reserve the right to select the persons to be heard at the hearing, to schedule their respective presentations and to establish the procedures governing the conduct of the hearing. We may limit the length of each presentation, based on the number of persons requesting to be heard.

We will designate a DOE official to preside at the hearing. This will not be a judicial or evidentiary-type hearing. Questions may be asked only by those conducting the hearing and there will be no cross-examination of persons presenting statements. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity, if he or she so desires, to make a rebuttal statement. Rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

You may submit questions to be asked of any person making a statement at the hearing to Public Hearing Management, Box RM, Room 2313, 2000 M Street NW., Washington, D.C. 20461, before 4:30 p.m., e.s.t., March 21, 1978. If you wish to ask a question at the hearing, you may submit it in writing to the presiding officer. We will determine whether the question is relevant and whether time limitations permit it to be presented for answer.

The presiding officer will announce any further procedural rules needed for the proper conduct of the hearing.

We will have a transcript made of the hearing, and we will retain the entire record of the hearing, including the transcript, and make it available for inspection at the Freedom of Information Office of the DOE, Room 2107, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday. You may purchase a copy of the transcript from the reporter.

You are also invited to participate in this rulemaking by submitting data, views, or arguments with respect to the matters considered in this notice to Public Hearing Management, Box RM, Room 2313, 2000 M Street NW., Washington, D.C. 20461.

You should identify your comments on the outside envelope and on documents submitted to Public Hearing Management, Box RM, 2000 M Street NW., Room 2313, Washington, D.C. 20461. You should submit fifteen copies. We will consider all comments received by March 27, 1978, and all relevant information before taking further action on this matter.

Any information or data that you submit pursuant to the above procedures and consider to be confidential must be so identified and submitted in one copy only. We reserve the right to determine the confidential status of the information or data and to treat it according to our determination.

(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; Energy Conservation and Production Act, Pub. L. 94-385, as amended, Pub. L. 95-70, Pub. L. 95-91; Department of Energy Organization Act, Pub. L. 95-91; E.O. 11790, 39 FR 23185; E.O. 12009, 42 FR 46267.)

Issued in Washington, D.C., February 12, 1978.

DAVID J. BARDIN,
Administrator, Economic Regulatory Administration.

[FR Doc. 78-4404 Filed 2-16-78; 8:45 am]

[3128-01]

[10 CFR Parts 210, 211, 212]

AVIATION GASOLINE DECONTROL

Advance Notice of Proposed Rulemaking and Public Hearing

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Advance Notice of Proposed Rulemaking and Public Hearing.

SUMMARY: The Economic Regulatory Administration ("ERA") of the Department of Energy ("DOE") is considering proposing amendments to exempt aviation gasoline from the Mandatory Petroleum Allocation and Price Regulations. The ERA is issuing this advance notice of proposed rulemaking and public hearing to obtain comment on whether its findings justify such an exemption. The DOE is concurrently issuing its Preliminary Findings and Views Concerning the Exemption of Aviation Gasoline from the Mandatory Petroleum Allocation and Price Regulations ("Preliminary Findings"), copies of which are available to the public. If the DOE concludes that aviation gasoline should be exempted, after it has considered all public comments, then the DOE will transmit a decontrol proposal to the Federal Energy Regulatory Commission ("FERC") for consideration by the FERC.

DATES: Comments by March 27, 1978. Hearing: Wednesday, March 22, 1978. Requests to speak by: March 10, 1978.

ADDRESS: Send comments and requests to speak to Public Hearing Management, Box RL, 2000 M Street NW., Room 2313, Washington, D.C.

20461; hearing: 9:30 a.m., Wednesday, March 22, 1978, 2000 M Street NW., Room 2105, Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

Deanna Williams (DOE Reading Room), 12th and Pennsylvania Avenue NW., Room 2107, Washington, D.C. 20461, 202-566-9161.

Ed Vilade (Media Relations), 12th and Pennsylvania Avenue NW., Room 3104, Washington, D.C. 20461, 202-566-9833.

Gerald P. Emmer (Economic Regulatory Administration), 2000 M Street NW., Room 2304, Washington, D.C. 20461, 202-254-7200.

Thomas B. DePriest (Office of General Counsel), 12th and Pennsylvania Avenue NW., Room 5134, Washington, D.C. 20461, 202-566-9565.

SUPPLEMENTARY INFORMATION:

I. Introduction.
II. Exemption Procedure.
III. Proposed Exemption.
IV. Hearing and Comment Procedures.

I. Introduction

Following a preliminary analysis of the impact of the regulation of aviation gasoline pursuant to the regulations promulgated under the Emergency Petroleum Allocation Act of 1973, as amended, Pub. L. 93-159 ("EPAA"), the DOE has tentatively concluded that this product should be exempted from the Mandatory Petroleum Allocation and Price Regulations, (10 CFR Parts 210, 211, and 212). Therefore, by this advance notice of proposed rulemaking and public hearing, the ERA is considering proposing two amendments to be submitted as energy actions to the Congress, in accordance with the provisions of section 12 of the EPAA, section 551 of the Energy Policy and Conservation Act, as amended, Pub. L. 94-163 ("EPCA"), and section 102 of the Energy Conservation and Production Act, as amended, Pub. L. 94-385 ("ECPA"), to exempt aviation gasoline from the regulations. The amendments would convert the regulations to standby authority with respect to the pricing and allocation of aviation gasoline. This advance notice of proposed rulemaking and public hearing is issued concurrently with the Preliminary Findings of the DOE. On this date, the ERA has also issued an advance notice of proposed rulemaking and related Preliminary Findings as to the exemption of kerosene-base jet fuel from the price and allocation regulations.

The DOE requests public comment with respect to the Preliminary Findings. If, after it has fully considered all comments received during the public comment period, the DOE concludes that its preliminary findings and views are correct, the Secretary of Energy or his designee will then transmit to the FERC, for consideration pursuant to sections 402(c)(1) and 404 of the Department of Energy Organization Act, Pub. L. 95-91 ("DOE Act"), a notice of proposed rulemaking setting forth the proposed exemptions. After receiving public comments on a proposed exemption, the FERC may, under section 404(b) of the DOE Act, concur in the adoption of the proposed exemptions, concur in the adoption only with such changes as it may recommend, or recommend that the exemptions not be adopted. Ultimately, if the FERC does concur, the Secretary of Energy may submit to the Congress (with any changes recommended by the FERC) two energy actions to exempt aviation gasoline from regulation.

During 1976, after extensive hearings on each proposal, the Federal Energy Administration ("FEA") exempted from the Mandatory Petroleum Allocation and Price Regulations, a number of petroleum products pursuant to section 12 of the EPAA. On June 1, 1976, the exemption of residual fuel oil became effective (41 FR 13896, April 1, 1976); on July 1, 1976, middle distillates were so exempted (41 FR 24516 and 24518, June 16, 1976). Effective September 1, 1976, naphthas, gas oils, greases, lubricants, certain petrochemical feedstocks and other specialty products were exempted (41 FR 30096, July 22, 1976); and on October 1, 1976, naphtha-base jet fuel was exempted (41 FR 40451 and 40452, September 20, 1976). In each case, the FEA was able to make the required statutory findings in support of the exemption. Furthermore, each exemption was submitted to and not disapproved by the Congress pursuant to the review procedures set forth in section 551 of the EPCA. In addition, the FEA issued a notice of proposed rulemaking to exempt motor gasoline (42 FR 40915, August 12, 1977). However, in contemplation of the transfer of authority from the FEA to the newly-established DOE, effective October 1, 1977, the FEA deferred any action on the motor gasoline proposal to afford the FERC an opportunity to consider the proposal under section 402(c) of the DOE Act (42 FR 54423, October 6, 1977). The FERC has not yet made its recommendations to the Secretary, but it has communicated to the Secretary its tentative determination to concur in the proposal, subject to certain preliminary recommendations on which it has solicited the Secretary's views.

II. Exemption Procedure

Pursuant to section 455 of the EPCA, only one refined product or product category may be exempted from DOE regulations in the same proceeding, and an exemption is not limited to 90 days in length as was previously required. The ERA may propose to exempt an oil or refined product category from the regulations prescribed under section 4(a) of the EPAA if the DOE determines that the exemption is consistent with the attainment of the public policy objectives specified in section (4)(b)(1) of the EPAA. Those objectives are as follows:

A. Protection of public health (including the production of pharmaceuticals), safety and welfare (including maintenance of residential heating such as individual homes, apartments and similar occupied dwelling units), and the national defense;

B. Maintenance of all public services (including facilities and services provided by municipally, cooperatively, or investor owned utilities or by any State or local government or authority, and including transportation facilities and services which serve the public at large);

C. Maintenance of agricultural operations, including farming, ranching, dairy and fishing activities, and services directly related thereto;

D. Preservation of an economically sound and competitive petroleum industry; including the priority needs to restore and foster competition in the producing, refining, distribution, marketing, and petrochemical sectors of such industry, and to preserve the competitive viability of independent refiners, small refiners, non-branded independent marketers, and branded independent marketers;

E. The allocation of suitable types, grades, and quality of crude oil to refineries in the United States to permit such refineries to operate at full capacity;

F. Equitable distribution of crude oil, residual fuel oil, and refined petroleum products at equitable prices among all regions and areas of the United States and sectors of the petroleum industry, including independent refiners, small refiners, non-branded independent marketers, branded independent marketers, and among all users;

G. Allocation of residual fuel oil and refined petroleum products in such amounts and in such manner as may be necessary for the maintenance of, exploration for, and production or extraction of—

(i) Fuels, and

(ii) Minerals essential to the requirements of the United States, and for required transportation related thereto;

H. Economic efficiency; and

I. Minimization of economic distortion, inflexibility, and unnecessary interference with market mechanisms.

Pursuant to section 12 of the EPAA, an amendment exempting crude oil,

residual fuel oil, or a refined petroleum product with respect to a class of persons or transactions, or with respect to any market level, must be submitted to the Congress as an energy action before it takes effect. The exemption will become effective if the amendment is not disapproved by either House of Congress within 15 days following its submission for Congressional review under section 551 of the EPCA.

Section 12 of the EPAA further provides that any amendment submitted to Congress which proposes to exempt crude oil (if permissible under and consistent with the requirements and limitations of section 8 of the EPAA), residual fuel oil, or any refined petroleum product from DOE allocation regulations must be accompanied by a finding that the oil or product is no longer in short supply and that the exemption would not have an adverse impact on the supply of any other oil or product. A proposed exemption from DOE price regulations must be accompanied by findings that competition and market forces would provide adequate protection for the consumer, and that such amendment would not result in inequitable prices for any class of user. An exemption amendment submitted to the Congress must also be accompanied by a DOE analysis of the potential economic impact of such amendment.

Any oil or refined petroleum product which is exempted from the DOE regulation under section 4(a) of the EPAA is subject to the reimposition of price and allocation controls if the DOE determines that reimposition is necessary for and consistent with the objectives specified in EPAA section 4(b)(1). Pursuant to section 12(f) of the EPAA, subsequent reexemption of that oil or refined petroleum product would not be subject to Congressional review.

In addition, section 102 of the ECPA prohibits the Secretary of Energy from submitting to the Congress as one energy action an amendment proposing exemption of any oil, refined petroleum product, or refined product category from both the allocation and pricing regulations. However, the DOE may concurrently submit to the Congress an energy action relating to price together with an energy action relating to allocation of the same oil, refined petroleum product, or refined product category.

III. Proposed Exemption

As section 12(C)(2) of the EPAA requires that an exemption amendment apply to only one refined petroleum product or one refined product category, we propose the exemption of aviation gasoline from DOE price and allocation regulations as a single product. We are considering the exemption of aviation gasoline from both the Mandatory Petroleum Allocation Regulations and the Mandatory Petroleum Price Regulations because recent supplies and market conditions appear to justify an end to both types of controls.

For the purposes of this proposed exemption, aviation gasoline, as defined in DOE allocation regulations (10 CFR §211.142), "means petroleum-based fuels designed for use in aircraft internal combustion engines, and complying with MIL-G-5572 specifications (ASTM—specification D-910-70)." The DOE price regulations (10 CFR §212.31) use slightly different language to explain that aviation gasoline "means all of the various grades of aviation gasoline as defined in ASTM D 910-70." Current specifications for the various grades of this product are in ASTM D-910-75.

We have tentatively concluded in our Preliminary Findings on the basis of currently available data that this exemption would be consistent with the objectives set forth in section 4(b)(1) of the EPAA, as amended by section 451 of the EPCA.

Our preliminary conclusion is that as long as supplies continue to be adequate, the continuation of allocation and price controls on aviation gasoline is unnecessary to protect the public health, safety and welfare, and the national defense (section 4(b)(1)(A)); the maintenance of all public services (section 4(b)(1)(B)); the maintenance of agricultural operations (section 4(b)(1)(C)); or the maintenance of exploration for and production or extraction of fuels and minerals (section 4(b)(1)(G)). Adequate supply and the positive effects of increased competition would also insure that an exemption would be consistent with the preservation of an economically sound and competitive petroleum industry (section 4(b)(1)(D)); the equitable distribution of crude oil, residual fuel oil and refined petroleum products at equitable prices (section 4(b)(1)(F)); economic efficiency (section 4(b)(1)(H)); and minimization of economic distortions, inflexibility, and interference with market mechanisms (section 4(b)(1)(I)). An exemption should have no adverse effect on the allocation of suitable crude oil to domestic refineries (section 4(b)(1)(E)). We emphasize that these conclusions are preliminary and invite you to submit specific data, views, and arguments with respect ot the relationship between the objectives of the EPAA and the exemption contemplated by this notice. In formulating our final proposal, we will consider any further information we receive with respect to the compatibility of the exemption considered herein with these objectives.

Tentative conclusions as set forth in the Preliminary Findings include:

(1) Aviation gasoline is not in short supply.

(2) Exemption of aviation gasoline from the allocation and price regulations will not have an adverse impact on the supply of any other oil or refined petroleum product subject to the EPAA.

(3) Competition and market forces are adequate to protect consumers following exemption of aviation gasoline from regulation.

(4) Exemption of aviation gasoline from regulation will not result in inequitable prices for any class of user of aviation gasoline or other products.

The Preliminary Findings also indicate our tentative views concerning the potential economic effects of exempting aviation gasoline from the Mandatory Petroleum Allocation and Price Regulations. As long as supplies remain adequate, we do not anticipate that there will be any adverse state or regional effects resulting from an exemption. As noted in the Preliminary Findings, the price regulations afford refiners the opportunity to pass through a large "bank" of unrecovered costs. The fact that these costs have not been passed through to purchasers is some indication that at the wholesale level prices of aviation gasoline are not being constrained by DOE price regulations. Removal of controls should not result in disparate prices increases for any region.

In addition, in a period of adequate supplies, we anticipate no adverse economic effects on the availability of consumer goods or services, the Gross National Product, competition, small business, or the supply and availability of energy resources as fuel or feedstock for industry. An exemption is likewise expected to have no adverse effect on employment or consumer prices. Our preliminary analysis concludes that, since supplies should remain adequate, there will be no effect of an exemption on the rate of unemployment in the United States, on the Consumer Price Index, or on the implicit price deflator for the Gross National Product.

We have also determined that an exemption would not significantly affect the quality of the environment, and therefore no environmental impact statement is required under the National Environmental Policy Act, as amended, Pub. L. 91-190.

IV. Hearing and Comment Procedures

Our specific preliminary findings and views on an exemption and the data and information in support of an exemption are fully set forth in our Preliminary Findings. To receive a copy of the Preliminary Findings, send your request to the DOE, Office of Communications and Public Affairs, Publications Distribution Center, Washington, D.C. 20461. Copies will

also be available at the DOE Press Room, Room 3138, 1200 Pennsylvania Avenue NW., Washington, D.C.

The public hearing will begin at 9:30 a.m., e.s.t., on Wednesday, March 22, 1978, in Room 2105, 2000 M Street NW., Washington, D.C. Any person who has an interest in this proceeding or who is a representative of a group or class of persons that has an interest in this proceeding may make a written request for an opportunity to make an oral presentation. Your request should be directed to Public Hearing Management, Box RL, Room 2313, 2000 M Street NW., Washington, D.C. 20461, and must be received before 4:30 p.m., e.s.t., on March 10, 1978. You may hand-deliver your request between the hours of 8 a.m. and 4:30 p.m., Monday through Friday. Label your request both on the document and on the envelope "Exemption of Aviation Gasoline."

In your request, you should briefly describe your interest; if appropriate, state why you are a proper representative of a group or class of persons having such interest; and give a concise summary of the proposed oral presentation and a phone number where we may contact you through March 21, 1978. If you are selected to be heard, we will notify you before 4:30 p.m., local time, March 14, 1978. You must submit one hundred copies of your statement to Public Hearing Management, Box RL, Room 2313, 2000 M Street NW., Washington, D.C. 20461, before 9 a.m., e.s.t. on March 20, 1978.

We reserve the right to select the persons to be heard at the hearing, to schedule their respective presentations and to establish the procedures governing the conduct of the hearing. We may limit the lenght of each presentation, based on the number of persons requesting to be heard.

We will designate a DOE official to preside at the hearing. This will not be a judicial or evidentiary-type hearing. Questions may be asked only by those conducting the hearing and there will be no cross-examination of persons presenting statements. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity, if he or she so desires, to make a rebuttal statement. Rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

You may submit questions to be asked of any person making a statement at the hearing to Public Hearing Management, Box RL, Room 2313, 2000 M Street NW., Washington, D.C. 20461, before 4:30 p.m., e.s.t., March 21, 1978. If you wish to ask a question at the hearing, you may submit it in writing to the presiding officer. We will determine whether the question is relevant and whether time limitations permit it to be presented for answer.

The presiding officer will announce any further procedural rules needed for the proper conduct of the hearing.

We will have a transcript of the hearing made, and we will retain the entire record of the hearing, including the transcript, and make it available for inspection at the Freedom of Information Office of the DOE, Room 2107, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday. You may purchase a copy of the transcript from the reporter.

We also invite you to participate in this rulemaking by submitting data, views, or arguments with respect to the matters considered in this notice to Public Hearing Management, Box RL, Room 2313, 2000 M Street NW., Washington, D.C. 20461.

You should identify your comments on the outside envelope and on the documents you submit to the Public Hearing Management, Box RL, 2000 M Street NW., Room 2313, Washington, D.C. 20461. You should submit fifteen copies. We will consider all comments received by March 27, 1978, and all relevant information before taking further action on this matter.

Any information or data that you submit pursuant to the above procedures and consider to be confidential must be so identified and submitted in one copy only. We reserve the right to determine the confidential status of the information or data and to treat it according to our determination.

(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; Energy Conservation and Production Act, Pub. L. 94-385, as amended, Pub. L. 95-70, Pub. L. 95-91; Department of Energy Organization Act, Pub. L. 95-91; E.O. 11790, 39 FR 23185; E.O. 12009, 42 FR 46267).

Issued in Washington, D.C., February 12, 1978.

DAVID J. BARDIN,
Administrator, Economic Regulatory Administration.

[FR Doc. 78-4405 Filed 2-16-78; 8:45 am]

[4110-03]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 320]

[Docket No. 77N-0425]

TRICYCLIC ANTIDEPRESSANTS

Proposed Bioequivalence Requirement

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: This is a proposal to establish a bioequivalence requirement for certain oral drug products categorized as tricyclic antidepressants used to treat depression characterized by inactivity and regression. This action is taken because available data suggest that the various marketed brands of the same oral tricyclic antidepressant may not have comparable therapeutic effects. The proposed regulations would assure the bioequivalence of different brands of these antidepressant drug products and batch-to-batch uniformity of the same drug product by each manufacturer.

DATES: Comments by April 18, 1978. The Director of the Bureau of Drugs proposes that the final regulation based on this proposal be effective on March 20, 1978.

ADDRESS: Written comments to the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

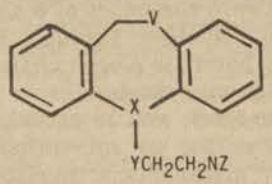
Jerome P. Skelly, Bureau of Drugs, HFD-522, Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4750.

SUPPLEMENTARY INFORMATION: Regulations in Subpart C of 21 CFR Part 320 set forth procedures for the Commissioner of Food and Drugs, on his own initiative or in response to a petition from an interested person, to propose and establish a bioequivalence requirement for drug products containing identical amounts of the same active ingredient and in the same dosage form that are intended to be used interchangeably for the same therapeutic effect and for which there is a known or potential bioequivalence problem. The issuance of bioequivalence regulations was delegated to the Director and Deputy Director of the Bureau of Drugs under 21 CFR 5.79 (published in the FEDERAL REGISTER of November 11, 1977 (42 FR 58738)). Data available to the Food and Drug Administration (FDA) suggest that there is well-decumented evidence of

actual bioequivalence differences in oral formulations of imipramine and potential bioequivalence differences in oral formulations of other tricyclic antidepressants among currently marketed brands of the same drug product produced by various manufacturers, based on the criteria set forth in §320.52 (21 CFR 320.52). Therefore, the Director of the Bureau of Drugs (hereafter "the Director"), on his own initiative, tentatively concludes that a bioequivalence requirement involving in vivo testing in humans and in vitro dissolution testing should be established for the following tricyclic antidepressants: Imipramine hydrochloride, desipramine hydrochloride, protriptyline hydrochloride, amitriptyline hydrochloride, nortriptyline hydrochloride, and doxepin hydrochloride. The evidence (Ref. 1) on which the Director bases his tentative conclusion and the proposed bioequivalence requirement are discussed below.

Background

The tricyclic antidepressants are used in the treatment of depression characterized by inactivity and regression (Ref. 2). Imipramine and its demethylated derivative desipramine, are dibenzazepine derivatives; amitriptyline, nortriptyline, and protriptyline are dibenzocyclohepadiene derivatives; and doxepin is a dibenzoxepine derivative. All are presented together on the basis that they are members of a class of drugs that have close structural similarity (see below), similar physiocochemical properties and indistinguishable pharmacological action.



Structural Relationship of Tricyclic Antidepressants

Drug	V	X-Y	Z
Imipramine HCl	CH_2	>N—CH_2—	$(CH_2)_3$
Desipramine HCl	CH_2	>N—CH_2—	H, CH_3
Protriptyline HCl[1]	CH_2	>CH—CH_2—	H, CH_3
Amitriptyline HCl	CH_2	>C=CHC—	$(CH_2)_3$
Nortriptyline HCl	CH_2	>C=CH—	H, CH_3
Doxepin HCl	O	>C=CH—	$(CH_2)_3$

[1]Protriptyline also has a double bond between C-10 and C-11.

The dosage of the tricyclic antidepressants and their solubility in water are shown in the following table:

Antidepressant Drugs; Dosage Forms, Doses, and Solubility

Drug	Dosage form	Dose (mg/day) range	(Usual)	Water solubility
Impramine HCl	T, A	50-300	(200)	Soluble.
Desipramine HCl	T, C	50-200	(150)	Do.
Protriptyline HCl	T	15-60	(40)	Do.
Amitriptyline HCl	T, V	30-300	(100)	Do.
Nortriptyline HCl	C, S	20-100	(80)	Do.
Doxepin HCl	C	75-300	(150)	Do.

T = Tablet; A = Ampul for IM injection; S = Oral solution.
C = Capsule; V = Vial for IM injection.

The therapeutic effects of all the tricyclic antidepressants become evident only after 2 or 3 weeks of treatment (Refs. 2 and 4). The entire class has the pharmacological properties of elevating the mood of patients, possessing sedative properties, blocking the uptake of norepinephrine by adrenergic nerve terminals, and blockade of the reserpine-induced sedative or "depressive" patterns in animals. All the tricyclic antidepressants have prominent anticholinergic responses to therapeutic doses, and all can cause orthostatic hypotension. The metabolic pathways of the tricyclic antidepressants are very similiar. Desipramine, the *N*-desmethyl active metabolite of imipramine, is thought by some to be the active therapeutic moiety responsible for antidepressant effects. Nortriptyline is the *N*-desmethyl active metabolite of amitriptyline (Ref. 2). All tricyclic antidepressants have the same side effects attributable to their anticholinergic effects.

Evidence To Establish a Bioequivalence Requirement

The following criteria as set forth in §320.52 were considered by the Director in determining that a bioequivalence requirement should be established:

1. Evidence from well-controlled bioequivalence studies that such products are not bioequivalent drug products (21 CFR 320.52(a)). Data submitted to FDA as partial fulfillment of the requirements for approval of an abbreviated new drug application (ANDA) (Ref. 5) indicate that one dosage formulation of imipramine hydrocholoride was only 74.3 percent as available as another on the basis of area under the plasma concentration-time curves (AUC) and peak plasma levels (Cmax).

Tmax, Cmax, and AUC of Tofranil and a Test Product Following Oral Administration of a 75-mg (3 × 25 mg) Dose

	Tofranil	Test product	Relative bioavailability (pct)
Tmax (hours)	3.4[a]±0.7[b]	3.8±1.3	
Cmax	46.2±25.1	34.5±19.4	74.3
AUC (0-5 hrs) (nanograms per milliliter per hour)	122.44±59.6	90.9±46.6	74.3

[a]Mean of 20 Subjects
[b]Standard Deviation.

Further, in this study 60 percent of the subject population (12 of 20 subjects) had significantly lower peak height levels and area under the plasma concentration-time curve for the test drug than for the reference drug, Tofranil.

2. Competent medical determination that a lack of bioequivalence would have a serious adverse effect in the treatment or prevention of a serious disease or condition (21 CFR 320.52(d)). Tricyclic antidepressant dosage is titrated to the individual patient. The substitution of a poorly bioavailable form in the regimen of a patient controlled on a fully available form would result in reversion to the depressed state. Inasmuch as such patients frequently go for long intervals without physician observation, a poorly bioavailable product substituted in the regimen of a patient well controlled on a fully available dosage form might not be discovered.

3. The dissolution rate of one or more such products is slow, e.g., less

than 50 percent in 30 minutes when tested using either a general method specified in an official compendium or a paddle method at 50 revolutions per minute in 900 milliliters of distilled or deionized water at 37° C, or differs significantly from that of an appropriate reference material such as an identical drug product that is the subject of an approved full new drug application (21 CFR 320.52(e)(2)). Data from dissolution testing by FDA in June 1977 (Ref. 6) of various strengths of currently marketed brands of imipramine hydrochloride clearly show that a number of the drug products have slow dissolution rates. The dissolution testing was conducted in water and 0.1N hydrochloric acid using the FDA paddle method at 50 revolutions per minute. With the exception of one brand (C), all others that dissolved slowly in water also had poor dissolution in 0.1N hydrochloric acid. Brand C, which had been shown in many in vivo blood level studies to have excellent bioavailability, dissolved slowly in water but had an improved dissolution rate in 0.1N hydrochloric acid. The results of the dissolution testing for the slowly dissolving brands are shown in the following table:

PERCENT DISSOLUTION OF IMIPRAMINE HCl IN 60 MINUTES

Brand	Percent dissolution in 60 minutes	
	Water	0.1N HCl
A (10 mg)	47.5	46.0
B (10 mg)	47.0	56.6
C (10 mg)	18.9	95.0
C (25 mg)	26.2	63.6
D (25 mg)	42.5	42.9
A[1] (50 mg)	22.4	24.2
A (50 mg)	24.6	21.4
E (50 mg)	37.0	45.2

[1]Two lots of brand A were tested.

Imipramine hydrochloride is very soluble in water, and there is little likelihood of a bioavailability problem with it as such. The poor dissolution demonstrated in the above data is due to reported special dosage formulation, e.g., imipramine hydrochloride tablets are coated with a special hydrophobic coating in order to render them impervious to moisture. For the drug to be biologically available it is important that the coating and subsequently the drug dissolve readily in the gastrointestinal tract. The poor dissolution of products both in water and 0.1N hydrochloric acid indicates a potential bioavailability problem.

THE BIOEQUIVALENCE REQUIREMENT

On the basis of these data, the Director tentatively concludes that the evidence meets one or more of the criteria set forth in § 320.52, and he proposes to establish a bioequivalence requirement for single active ingredient oral dosage form drug products containing the following tricyclic antidepressants: imipramine hydrochloride, desipramine hydrochloride, protriptyline hydrochloride, amitriptyline hydrochloride, nortriptyline hydrochloride, and doxepin hydrochloride. The proposed bioequivalence requirement would be applicable to all manufacturers of such drug products and would require each manufacturer, except a manufacturer of a reference material or a manufacturer who has previously conducted in vivo bioavailability/bioequivalence studies fulfilling the requirements of this section, to: (1) Conduct an in vitro dissolution test comparing its drug product to a specified reference material and (2) conduct an in vivo bioavailability study comparing its drug product to a specified reference material. Results of recent dissolution testing by FDA (Ref. 6) have shown that products with acceptable in vivo bioavailability dissolve 50 percent or better in 30 minutes and 75 percent or better in 60 minutes. Therefore, under this proposed requirement, the test drug product would be deemed to meet the bioequivalence requirement if (1) the in vitro data show that the dissolution rate for the test drug product is not less than 50 percent in 30 minutes and not less than 75 percent in 60 minutes, and (2) the in vivo data show that the test drug product meets the following conditions:

1. The test drug product and the reference material indicate no more than 20 percent difference in the comparison of measured parameters, e.g., concentration of the active drug ingredient in the plasma, peak plasma levels (Cmax), time to attain peak plasma levels (Tmax), and area under the plasma concentration-time curves (AUC);

2. In at least 75 percent of the subjects administered the drug, the test drug product has a bioavailability of greater than 75 percent relative to that of the administered reference material utilizing each subject as his own comparison; and

3. Analytical and statistical techniques used are of sufficient sensitivity to detect those differences in rate and extent of absorption that are not attributable to subject variability.

The Director advises that further in vivo studies may be required where data submitted in the application differ significantly from data involving valid studies reported in literature or obtained by the agency using a validated protocol and method.

The Director further proposes that a manufacturer of a drug product selected by FDA as the reference material and a manufacturer of any drug product subject to the requirements of this proposal, who has previously conducted in vivo tests in humans to demonstrate bioavailability/bioequivalence of his drug product in accordance with the provisions of this proposal, would be required to conduct in vitro dissolution testing on three consecutive lots/batches of their product to demonstrate consistent dissolution performance. A manufacturer of a reference material who has not previously conducted in vivo bioavailability/bioequivalence studies fulfilling the requirements of this proposal would be required to conduct an in vivo bioavailability study comparing the reference material with a solution or suspension of an equivalent amount of the tricyclic antidepressant contained in the reference material.

A manufacturer of a drug product subject to these proposed requirements who has previously conducted in vivo bioavailability/bioequivalence studies, e.g., to meet requirements for approval of an ANDA for a drug product covered by a drug efficacy study implementation (DESI) notice, may request that FDA evaluate such studies to determine whether (1) such studies now fulfill the requirements under this proposal, or (2) such studies are adequate and conclusive to assure the bioequivalence of the drug product in light of current scientific knowledge and methodology.

To obtain data necessary to correlate in vivo data with in vitro data, the Director proposes that the same lot/batch of the test product and one of the three lots/batches of the reference material used in the in vitro test be used in the in vivo test, unless a manufacturer has conducted in vivo tests in humans to demonstrate bioavailability/bioequivalence prior to the effective date of these proposed requirements.

General guidelines for the conduct of in vivo testing are set forth in § 320.25 (21 CFR 320.25). Specific guidelines for in vivo testing and for in vitro dissolution testing of tricyclic antidepressants are on file in the office of the Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, Md. 20857, and are available on request. The reference material to be used in conducting the in vivo and in vitro tests of each drug product subject to these proposed requirements is named in the guidelines for in vivo bioavailability studies for tricyclic antidepressants.

The Director proposes that the results of the required in vitro dissolution test be submitted to FDA on or before 60 days following the effective date of the final regulation and the results of the required in vivo test be submitted to FDA on or before 180 days following the effective date of the final regulation. The proposed effective date of the final regulation is March 20, 1978. The Director believes

this will be sufficient time for a manufacturer to conduct the required tests, evaluate the data, prepare the necessary reports, and submit them to FDA. The Director advises, however, that in meeting an in vivo bioavailability requirement for some tricyclic antidepressants, the agency may require a manufacturer to conduct a pilot study to determine optimal sampling times and volume of sample needed. An additional extension up to 180 days may be granted by the Director upon request from the manufacturer to allow sufficient time to conduct the pilot study and submit the data to FDA. In addition, FDA encourages the submission of protocols for conducting in vivo bioavailability studies. If a manufacturer submits a protocol for evaluation by FDA, the Director will grant an extension of time necessary for the initial review of the protocol.

The Director advises that drug products subject to this proposal are regarded as new drugs as defined in section 201(p) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(p)), requiring either an approved full or abbreviated new drug application as a condition to market the product lawfully. Marketing of such a drug product shall be in accordance with the requirements of § 320.58 (21 CFR 320.58).

After the effective date of a final regulation establishing a bioequivalence requirement, each manufacturer, under § 320.56 (21 CFR 320.56), would be required to conduct the in vitro dissolution test on a sample of each batch of the oral tricyclic antidepressant to assure batch-to-batch uniformity.

REFERENCES

Copies of all references cited below are on public display in the office of the Hearing Clerk, FDA.

1. Skelly, J. P., H. R. Murdock, and C. M. Ise in collaboration with W. Barr and S. Sawer, "Tricyclic Antidepressants Monograph."

2. Byck, R., "Drugs and the Treatment of Psychiatric Disorders, II. Drugs Used in the Treatment of Affective Disorders," *in* "The Pharmacological Basis of Therapeutics," 5th ed., edited by L. S. Goodman and A. Gilman, MacMillan, New York, pp. 174-179, 1975.

3. Swinyard, E. A., "Psychopharmacologic Agents," *in* "Remington's Pharmaceutical Sciences," 15th ed., Mack Publishing Co., Easton, pp. 1029-1034, 1975.

4. Oswald, I., V. Brezinova, and D. L. F. Dunleavy, "On the Slowness of Action of Tricyclic Antidepressant Drugs," *British Journal of Psychiatry*, 120:673-677, 1972.

5. Ise, C. M., FDA internal memorandum to J. P. Skelly, "Imipramine: One of the Dibenzazepine Group of Antidepressants, ANDA Summary," July 25, 1977.

6. Dighe, S. V., FDA internal memorandum to J. P. Skelly, "Dissolution Data on Imipramine HCl," October 19, 1977.

The Commissioner has carefully considered the environmental effects of the proposed regulation and, because the proposed action will not significantly affect the quality of the human environment, has concluded that an environmental impact statement is not required. A copy of the environmental impact assessment is on file with the Hearing Clerk, Food and Drug Administration.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(p), 502, 505, 701(a), 52 Stat. 1041-1042 as amended 1050-1053 as amended, 1055, (21 U.S.C. 321(p), 352, 355, 371(a)) and under authority delegated to the Director of the Bureau of Drugs (21 CFR 5.79), it is proposed that Part 320 be amended by adding to proposed Subpart D new § 320.107 to read as follows:

§ 320.107 Oral tricyclic antidepressants.

(a) *Applicability.* The requirements of this section apply to all single active ingredient oral dosage form drug products containing the tricyclic antidepressants imipramine hydrochloride, desipramine hydrochloride, protriptyline hydrochloride, amitriptyline hydrochloride, nortriptyline hydrochloride, and doxepin hydrochloride.

(b) *Bioequivalence requirement for in vitro testing.* (1) Each manufacturer of a drug product subject to this section, except as provided for in paragraph (b)(3) of this section, shall conduct an in vitro dissolution test comparing its drug product to the reference material.

(2) The test drug product shall be deemed to meet the bioequivalence requirement for in vitro testing if it dissolves not less than 50 percent in 30 minutes and not less than 75 percent in 60 minutes.

(3) Each manufacturer of a drug product subject to this section that is selected by the Food and Drug Administration as the reference material and each manufacturer of a drug product subject to this section, who has previously conducted in vivo tests in humans to demonstrate bioavailability/bioequivalence of its drug product in accordance with the provisions of this section, shall conduct an in vitro dissolution test on three consecutive lots/batches of their drug product to demonstrate consistent dissolution performance.

(4) Each manufacturer of a drug product subject to this section shall submit the results of the required in vitro dissolution test to the Food and Drug Administration on or before (60 days after the effective date of this section).

(c) *Bioequivalence requirement for in vivo testing in humans.* (1) Each manufacturer of a drug product subject to this section, other than a manufacturer of the reference material, who has not conducted in vivo bioavailability/bioequivalence studies fulfilling the requirements of this section prior to the effective date of this section, shall conduct an in vivo bioavailability study in humans comparing its drug product to the reference material.

(2) The test drug product shall be deemed to meet the bioequivalence requirement for in vivo testing in humans if the following conditions are met:

(i) The test drug product and the reference material indicate no more than 20 percent difference in the comparison of measured parameters, e.g., concentration of the active drug ingredient in the plasma, peak plasma levels (Cmax), time to attain peak plasma levels (Tmax), and area under the plasma concentration-time curves (AUC);

(ii) In at least 75 percent of the subjects administered the drug, the test drug product has a bioavailability of greater than 75 percent relative to that of the administered reference material utilizing each subject as his own comparison; and

(iii) Analytical and statistical techniques used are of sufficient sensitivity to detect those differences in rate and extent of absorption that are not attributable to subject variability.

(3) Each manufacturer of a drug product subject to this section that is selected by the Food and Drug Administration as the reference material, who has not conducted in vivo bioavailability/bioequivalence studies fulfilling the requirements of this section prior to the effective date of this section, shall conduct an in vivo bioavailability study in humans comparing its product (i.e., the reference material) with a solution or suspension of an equivalent amount of the tricyclic antidepressant contained in the reference material.

(4) Each manufacturer of a drug product subject to this section shall submit the results of the required in vivo testing to the Food and Drug Administration on or before (180 days after the effective date of this section). The Food and Drug Administration may grant an extension of time up to 180 days upon request for the submission of the results of the required in vivo test when pilot studies are required prior to commencing such tests. An extension of time necessary for an initial review of a protocol will be granted by the Food and Drug Administration when a protocol is submitted.

(5) Each manufacturer of a drug product subject to this section, who has conducted one or more in vivo bioavailability/bioequivalence studies prior to (the effective date of this section), may request an evaluation of such studies to determine whether (i) such studies now fulfill the requirements under this section, or (ii) such studies are adequate and conclusive to

assure the bioequivalence of the drug product in light of current scientific knowledge and methodology. Any such request shall contain the new drug application number, the established (generic) name of the drug product, the dosage form and strength of the drug product, and the date(s) of submission of the pertinent study information contained in the new drug application.

(6) If the manufacturer holds an approved or pending full new drug application for the drug product, a request for an evaluation shall be submitted to the Division of Neuropharmacological Drug Products (HFD-120), Bureau of Drugs, Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20857. If the manufacturer holds an approved or pending abbreviated new drug application for the drug product, a request for an evaluation shall be submitted to the Division of Generic Drug Monographs (HFD-530), Bureau of Drugs, Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20857.

(d) *Reference material and guidelines for testing.* (1) The reference material to be used in the in vivo and in vitro tests is specified in the "Guidelines for In Vivo Bioavailability Studies for Tricyclic Antidepressants." The same lot/batch of the test drug product and one of the three lots/batches of the reference material used in the in vitro test shall be used in the in vivo test, unless a manufacturer has conducted in vivo tests in humans to demonstrate bioavailability/bioequivalence prior to (the effective date of this section).

(2) Guidelines for the conduct of in vivo and in vitro tests of tricyclic antidepressants are on file in the office of the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, and are available on request to that office.

Interested persons may, on or before April 18, 1978 submit to the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

NOTE.—The Food and Drug Administration has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821 (as amended by Executive Order 11949) and OMB Circular A-107. A copy of the economic impact assessment is on file with the Hearing Clerk, Food and Drug Administration.

Dated: February 9, 1978.

J. RICHARD CROUT,
Director, Bureau of Drugs.

[FR Doc. 78-4136 Filed 2-16-78/ 8:45 am]

[8320-01]

VETERANS ADMINISTRATION

[38 CFR Part 21]

VETERANS EDUCATION

Policies and Procedures

AGENCY: Veterans Administration.

ACTION: Request for public comment.

SUMMARY: The Veterans Administration is publishing for public comment new and revised statements of policy and procedures which have been adopted by the Agency to implement the GI Bill Improvement Act of 1977. These policy and procedural statements will better acquaint veterans, eligible persons, educational institutions, and the public at large with the way in which this Act will be administered.

DATES: Comments must be received on or before March 20, 1978.

ADDRESSES: Send written comments to: Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue NW., Washington, D.C. 20420.

Comments will be available at the address shown above during normal business hours until March 30, 1978.

FOR FURTHER INFORMATION CONTACT:

June C. Schaeffer, Assistant Director for Policy and Program Administration, Education and Rehabilitation Service, Department of Veterans Benefits, Veterans Administration, 810 Vermont Avenue NW., Washington, D.C. 20420, 202-389-2092.

SUPPLEMENTARY INFORMATION: This publication contains DVB Circular 20-78-3. This circular deals with the policy and procedures necessary to implement provisions of the GI Bill Improvement Act of 1977 as to accelerated payment of educational assistance allowance (loan forgiveness). This circular has been implemented and has or will be distributed through normal channels to interested persons.

ADDITIONAL COMMENT INFORMATION

Interested persons are invited to submit written comments, suggstions, or objections regarding this document to the Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue NW., Washington, D.C. 20420. All written comments received will be available for public inspection at the above address only between the hours of 8 a.m. and 4:30 p.m. Monday through Friday (except holidays), until March 30, 1978. Any person visiting Central Office for the purpose of inspecting any such comments will be received by the Central Office Veterans Services Unit in room 132. Such visitors to a VA field station will be informed that the records are available for inspection only in Central Office and furnished the address and the above room number.

Approved: February 13, 1978.

By direction of the Administrator.

RUFUS H. WILSON,
Deputy Administrator.

DEPARTMENT OF VETERANS BENEFITS, VETERANS ADMINISTRATION, WASHINGTON, D.C. 20420

[DVB Circular 20-78-3]

ACCELERATED PAYMENT

JANUARY 23, 1978.

1. *General.* Accelerated payment is a new Federal-State matching program created by Public Law 95-202 which is designed to assist veterans and other eligible persons to attend higher cost schools. Under this program, a veteran or other eligible person could use his or her unused entitlement upon graduation to partially cancel VA (Veterans Administration) education loans made after January 1, 1978. There are numerous eligibility requirements in this program imposed by law, and it must be emphasized that no person can be eligible until an appropriate State or local jurisdiction has established a matching program.

2. *Purpose.* The purpose of this circular is to notify appropriate educational institutions that accelerated payments under 38 U.S.C. 1682A may be available for certain students and to specify the conditions and procedures governing such payments. Students enrolled in correspondence schools or flight schools or apprenticeship or other on-the-job training are not eligible for accelerated payment upon completion of their programs because such students are not eligible for VA education loans under the provisions of 38 U.S.C. 1798.

3. *Definitions.* (a) The term "veteran" refers to a veteran entitled under title 38, chapter 34 (the GI Bill) or an eligible person entitled under title 38, chapter 35 (Dependents Educational Assistance).

(b) The term "accelerated payment" means a payment made from a veteran's remaining entitlement upon satisfactory completion of his or her program which is used to partially cancel outstanding VA education loans made under 38 U.S.C. 1798.

(c) The term "matching payment" means a payment to the VA Education Loan Fund from a State or local governmental unit on behalf of a particular veteran, which matches the maximum or a lesser amount of the accelerated payment to which such veteran is entitled from the VA.

(d) The term "State" refers to the State or States where the educational institutions are located in which the veteran was enrolled during his or her program. The term also refers to a local governmental unit or units (city, county, school district, etc.) with jurisdiction over the geographical area where such educational institutions are located.

(e) For purposes of the accelerated payment program, "school term" is defined as:

(1) Three consecutive quarters for IHL's (institutions of higher learning) operating on a quarter system;

(2) Two consecutive semesters for IHL's operating on a semester system; and

(3) A period of 9 to 11 months for IHL's not operating on a semester or quarter system and for schools which are not institutions of higher learning provided the program of education is divided into segments and at least one segment is completed prior to or during the 9- to 11-month period. (A continuously operated program with no defined segments as shown in the school catalog or other bulletin describing the program, will not qualify as a "school term" for accelerated payment unless the complete program itself if 9 to 11 months in length.)

4. *Eligibility.*—(a) *General Requirements.* (1) The veteran must have some entitlement remaining at the end of his or her program.

(2) The educational institution where the veteran completed his or her program must certify that: (a) The veteran has satisfactorily completed his or her program of education and attained the approved predetermined educational, professional, or vocational objective which such veteran has been pursuing; and (b) the veteran has been awarded by such institution the appropriate educational degree, diploma, or certificate signifying such completion and attainment. A professional or vocational objective will be considered attained for the purpose of this requirement if the veteran has completed the approved program and has been issued a degree, diploma, or certificate from the school.

(3) The application for accelerated payment is received by the VA within 180 days after: (a) The date on which the degree, diploma, or certificate is awarded showing completion of the approved program, or (b) the date on which the appropriate State or local governmental unit establishes a matching program as described in subparagraph b(6) below, whichever date is later.

(b) *Requirements Which Apply to Individual "School Terms."* Eligibility for accelerated payment will be determined separately for each "school term" in which the veteran was enrolled. (No accelerated payment can be made for any enrollment period of less than a full "school term" except for an enrollment period before August 1, 1978, as described in subparagraph c below.) A veteran will be eligible for accelerated payment in connection with a particular "school term" if the following requirements have been met:

(1) Enrollment was full time throughout such "school term."

(2) The veteran was awarded educational assistance allowance for such "school term." This requirement will be considered to have been met even though some or all payments may have been withheld to repay an overpayment.

(3) The veteran received a VA education loan or loans under 38 U.S.C. 1798 after January 1, 1978 for such "school term."

(4) The tuition and fees of the educational institution in which the veteran was enrolled exceeded $700 for such "school term." Adjudication Divisions at VA field stations will compute this requirement using the tuition and fees as shown on the VA Form 22-8725, Education Loan Application, which is filed in the applicable claims file.

(5) The educational institution has certified for such "school term" that no more than 35 percent of all students (computed separately for the main campus and any branch or extension if separate 85-15 percent computations were required) were receiving educational assistance benefits under chapters 31, 32, 34 and 35 of title 38, U.S.C. Each semester or quarter within the "school term" must meet the 35 percent requirement. Adjudication will review the periodic school certifications already made in connection with the 85-15 percent ratio requirement (see DVB Circular 20-76-84, app. H, Revised) to determine if the 35 percent requirement has been met. (Effective immediately, education liaison representatives at VA field stations will retain the 85-15 percent ratio certifications for an indefinite period.)

(6) The State (or local governmental unit) where the educational institution is located pays to the VA, on the individual veteran's behalf, an amount not to exceed the maximum accelerated payment which the VA is authorized to make for such "school term." The State or local matching fund program must be established within 5 years after January 1, 1978. This matching program may limit benefits to veterans who are bona fide residents of such State and may contain such additional provisions as the State may deem appropriate. Additional provisions in the State program may be necessary to define the term "educational institution" (for example, how would out-of-State branches be treated?) and to specify the formulas to be used if there are overlapping jurisdictions (for example, a State and a county). A matching program established by any State or local jurisdiction will not be subject to VA approval.

(c) *Eligibility for Enrollment Periods Prior to August 1, 1978.* Notwithstanding the requirement in subparagraph b above that eligibility for accelerated payment must be based on enrollment for a full "school term", a veteran may be entitled to accelerated payment in connection with a semester or two consecutive quarters beginning after January 1, 1978, and ending prior to August 1, 1978. However, certain eligibility criteria must be prorated as follows:

Period for which accelerated payment claimed	*Loan amount and the tuition and fees each must exceed*
One semeter (available prior to Aug. 1, 1978 only)	$350
Two quarters (available prior to Aug. 1, 1978 only)	450

5. *Computation of Accelerated Payment.* (a) The accelerated payment made by the VA in connection with any particular "school term" will be the lesser of:

(1) An amount equal to the educational assistance allowance actually awarded for such "school term;"

(2) An amount equal to ⅓ of the amount by which tuition and fees exceed $700 for such "school term;"

(3) An amount equal to ⅓ of the amount by which the current outstanding VA Education Loan obligation (principal only) exceeds $700 for such "school term;"

(4) An amount equal to the number of months (and fractional months) of remaining entitlement multiplied by the full-time rate (with dependents) in effect for the last month of the program within the delimiting period;

(5) An amount which the State (or local governmental unit or both) pays to the VA Education Loan Fund to match the maximum or a lesser amount of the accelerated payment to which such veteran is entitled from the VA.

(b) The total accelerated payment made by the VA will be the sum of the accelerated payments made in connection with the "school terms" for which eligibility is established. The VA will initially compute the maximum potential accelerated payment for each "school term" and will advise the State or local jurisdiction of this maxi-

mum. However, the actual accelerated payment which is made for each "school term" may not exceed the State/local matching payment for such "school term." (See exhibit A for examples.)

6. *Application Procedures.* (a) The veteran's application for a VA education loan, VA Form 22-8725, is the first step leading to possible accelerated payment. After January 1, 1978, loan applications will routinely provide for assignment to the VA of the amount of any accelerated payment to which the veteran may become entitled, as well as assignment of the amount of any matching contribution by a State.

(b) The veteran may apply for accelerated payment at the end of his or her program on VA Form 22-8814, Application for Accelerated Payment, to be published. The school which granted the degree, diploma, or certificate will be required to certify on this application form that the veteran has satisfactorily completed his or her program and attained the educational, professional or vocational objective.

7. *Processing Applications for Accelerated Payment.* Upon receipt of an application for accelerated payment, the adjudicator or education clerk will first determine if there is any State (or local jurisdiction) which has a matching program under which the veteran might possibly be entitled. The education liaison representative will maintain a file of participating jurisdictions for this purpose.

(a) If it is determined that there may be a participating jurisdiction, the maximum potential accelerated payment will be computed separately for each "school term" on VA Form 22-8815, Worksheet for Computing Accelerated Payment, to be issued. (See par. 8 if potential eligibility is established.)

(1) The Finance activity will certify the current amount of the outstanding loan balance for each "school term" for use by the Adjudication Division.

(2) In the event that the entire principal for a loan has been repaid, there will be no entitlement to accelerated or matching payment in connection with that "school term."

(b) If eligibility cannot be established, the adjudicator or education clerk will fully advise the claimant of the reason for the disallowance by means of a dictated letter which will include the right of appeal. If the claim is denied because there is no participating jurisdiction, the veteran will be informed that the claim may be reopened provided the State (or local jurisdiction) establishes a matching program by January 1, 1983.

(c) Whenever a formal claim on VA Form 22-8814 is denied solely because there is no participating jurisdiction, a copy of the disallowance letter should be referred to the education liaison representative for retention in a special local holding file. This file will be used to notify potential claimants of their eligibility in the event an appropriate State or local jurisdiction establishes a matching program at some future date prior to January 1, 1983.

8. *Referral to Participating Jurisdiction.* (a) If potential eligibility is established, a VA Form 22-8816, Notice of Potential Eligibility to Accelerated Payment, will be completed by Adjudication and mailed to the appropriate State or local agency. This notice will inform the State or local jurisdiction of the maximum potential accelerated payment for each "school term." A copy of VA Form 22-8814 will be attached.

(b) The participating jurisdiction(s) will determine the size of the matching payment for each "school term." This matching payment may be equal to or less than the amount of the potential maximum accelerated payment for such "school term." Any matching payment will be made to the VA Education Loan Fund on the individual veteran's behalf. The check for the matching payment will be mailed to the Finance Officer of the VA office which initiated the VA Form 22-8816.

(c) If the State should decline to make a matching payment or make a matching payment of less than the maximum payable, the adjudicator or education clerk will fully inform the veteran. If a veteran disagrees with a denial of matching payment or with the amount of a matching payment, his or her appeal must be to the appropriate State or local jurisdiction. However, all other issues in the accelerated payment program may be appealed through the normal VA appellate process.

9. *Loan Reduction.* (a) Upon receipt of a matching payment on the veterna's behalf, the Finance Officer of the VA regional office will reduce the amount of the outstanding education loan balance(s) for the appropriate "school terms" by an amount equal to:

(1) The amount of the matching payment for each "school term," plus

(2) An amount of the potential maximum accelerated payment for each "school term" which is equal to the matching payment.

(b) The veteran will be promptly notified by the Finance Officer as to the total remaining loan balance and of the remaining entitlement, if any. Adjudication will determine the entitlement charge in accordance with paragraph 10 below.

NOTE.—The loan reduction may occur after the veteran's delimiting date as well as before.

10. *Entitlement Charge.* The veteran's entitlement will be charged based on the total accelerated payment made by the VA (not the matching payment). The total accelerated payment will be divided by the full-time rate (with dependents) in effect for the last month of the program within the delimiting period. Entitlement will be charged in full months and fractions. When the computation results in a period other than a full month, or other than exactly a ¾, ½ or ¼ fractional part of a month, the entitlement charge will be reduced to the next lower quarter fraction of a month. The adjudicator or education clerk will charge the veteran's entitlement by making appropriate 02V corrections to fields 386 and 390 as described in M22-2, Part IV, chapter 4, paragraph 4.10e, footnote 2.

Example: Accelerated payment is $600 and the full-time rate is $311. The entitlement charge would be 1¾ months computed as follows: $600/311=1 full month and 289/311 fraction of a month. The fraction would be reduced to the next lower quarter; i.e., ¾. Therefore, the entitlement charge should be 1¾ months. Input to field 386 would show "8" and input to field 390 would show "01" months and "29" days.

11. *End Products.* The Adjudication Division will be responsible for determining eligibility for accelerated payment and for establishing necessary controls. End product 220 will be used for allowances and disallowances. A pending 220 will be established in any case where entitlement appears to exist, and this end product will not be recorded as final until all actions have been completed and the claim is either allowed or disallowed.

12. *Liaison Responsibility.* (a) All States will be notified by Central Office about the existence of the new accelerated program. In the event a State or local jurisdiction should enact a matching program, the education liaison representative will immediately advise Central Office (223A) by teletype or letter of the name of the participating jurisdiction and the full address of the State or local office that will be handling the matching payment referrals. A copy of the State (or local jurisdiction) law which enacts the matching program should also be sent to Central Office (223A) when this document becomes available.

(b) In participating States, the liaison representative will request the State to designate a State agency to serve as the liaison point for all accelerated payment claims within that State.

(c) Central Office will advise all stations by teletype whenever notice is received that a State (or local jurisdiction) has established a matching program. The liaison representative in each station will maintain a centralized file of such notices for subsequent use by the Adjudication Division. Ad-

ditional responsibilities of the liaison representative in the accelerated payment program are noted in paragraphs 4b and 7c of this circular.

EXHIBIT A.—EXAMPLES OF ACCELERATED PAYMENT

Example No. 1

Facts: Veterans received full-time benefits (no dependents) for "school term" 9/1/78-5/30/79 (2 semesters). Program completed 5/30/79 with 4 months of entitlement remaining. Application for accelerated payment filed 8/1/79. VA education loan of $2,500 made on 10/1/78 for "school term" 9/1/78-5/30/79. Tuition and fees $3,000 for same "school term." School had less than 35 percent VA enrollment for each semester. State has enacted a matching program.

Eligibility: All requirements met.

Maximum Potential Accelerated Payment: $600. Computed as the Lessor of:

(a) The educational assistance paid for the "school term" or (9×$311): $2,799.

(b) ⅓ of the amount by which tuition and fees exceed $700 for the "school term" or ⅓ ($3,000−$700): $766.66.

(c) ⅓ of the amount by which the outstanding VA Loan obligation for the "school term" exceeds $700 or ⅓ ($2,500−$700): $600.

(d) Number of months of entitlement multiplied by full-time rate or (4×$311): $1,244.

Matching Payment: Assume $600. (The State could match a lesser amount.)

Actual Accelerated Payment: $600.

Loan Reduction: $1,200.

Entitlement Charge: 1¾ months (computed as $600/$311).

Example No. 2

Facts: Veterans received full-time benefits (1 dependent) for "school term" 9/11/78-6/10-79 (2 semesters) and from 6/10/79 to 9/1/79 (summer session). Program completed 9/1/79 with 5 months of entitlement remaining. Application for accelerated payment filed on 12/5/79. VA education loan of $3,325 granted on 10/1/78 for entire period 9/11/78-9/1/79 (Note: Only the $2,500 of this loan which applies to the "school term" may be used in the computation of accelerated payment.) Tuition and fees $3,000 for "school term" (2 semesters). School meets 35 percent requirement for each semester. State has enacted a matching program.

Eligibility: All requirements met.

Maximum Potential Accelerated Payment: $600. Computed as the Lessor of:

(a) The educational assistance paid for the "school term" or (9×$370): $3,330.

(b) ⅓ of the amount by which tuition and fees exceed $700 for the "school term" or ⅓ ($3,000−$700): $766.66.

(c) ⅓ of the amount by which the outstanding VA Loan obligation for the "school term" exceeds $700 or ⅓ ($2,500−$700): $600.

(d) Number of months of entitlement multiplied by full-time rate or (5×$370): $1,850.

Matching Payment: Assume $500. (The State could have matched $600 but elected to match a lesser amount.)

Actual Accelerated Payment: $500.

Loan Reduction: $1,000.

Entitlement Charge: 1¼ months (computed as $500/$370).

Example No. 3

Facts: Veteran received full-time benefits (no dependents) for 2 semesters from 9/15/77-6/15/78 ("school term" I consists of the second semester only which started on 2/1/78) and for 2 semesters from 9/11/78-6/10/79 ("school term" II consists of both of these semesters). Program completed 6/10/79 with 4 months of entitlement remaining. Application for accelerated payment filed 8/1/79. VA education loans of $2,500 made on 2/1/78 for the period 9/15/77-6/15/78 and on 10/1/78 for the period 9/11/78-6/10/79. Tuition and fees $3,000 for both periods (i.e., $1,500 for each semester). School meets 35 percent requirement for each semester of both terms. State has enacted a matching program.

Eligibility: All requirements met.

Maximum Potential Accelerated Payment For Term I: $300. Computed as the lesser of:

(a) The educational assistance paid for the "school term" or (4½×$311): $1,399.50.

(b) ⅓ of the amount by which tuition and fees exceed $350 for the "school term" or ⅓ ($1,500−$350): $383.33.

(c) ⅓ of the amount by which the outstanding VA Loan obligation for the "school term" exceeds $350 or ⅓ ($1,250−$350): $300.

(d) Number of months of entitlement multiplied by full-time rate or (4×$311): $1,244.

Maximum Potential Accelerated Payment For Term II: $600. Computed as the lesser of:

(a) The educational assistance paid for the "school term" or (9×$311): $2,799.

(b) ⅓ of the amount by which tuition and fees exceed $700 for the "school term" or ⅓ ($3,000−$700): $766.66.

(c) ⅓ of the amount by which the outstanding VA Loan obligation for the "school term" exceeds $700 or ⅓ ($2,500−$700): $600.

(d) Number of months of entitlement multiplied by full-time rate or (4×$311)−$300 (the amount matched from Term I): $944.

Matching Payment: $900. (This assumes the State matches the maximum amount for each "school term".)

Actual Accelerated Payment: $900.

Loan Reduction: $1,800.

Entitlement Charge: 2¾ months (computed as $900/$311).

Example No. 4

Facts: Veteran received full-time benefits (no dependents) for a nondegree program from 4/1/78-8/1/79. Program is divided into segments of approximately 10 weeks each. Program completed 8/1/79 with 10 months of entitlement remaining. Application for accelerated payment filed 11/1/79. VA education loan of $3,325 made on 5/1/78 for 12-month period 4/1/78-3/31/79 (Note: Only $2,500 of this loan may be used in the computation as this is the maximum loan for a "school term.") Tuition and fees $4,000 for full 16-month program. (Note: Only 1⅛ of this tuition or $2,750 can be used in computing accelerated payment since a "school term" has been defined as 9-11 months for non-degree programs.) School meets the 35 percent requirement. Local jurisdiction has a matching program.

Eligibility: All requirements met.

Maximum Potential Accelerated Payment: $600. Computed as the lesser of:

(a) The educational assistance paid for the "school term" or (11×$311): $3,421.

(b) ⅓ of the amount by which tuition and fees exceed $700 for the "school term" or ⅓ ($2,750−$700): $683.33.

(c) ⅓ of the amount by which the outstanding VA Loan obligation for the "school term" exceeds $700 or ⅓ ($2,500−$700): $600.

(d) Number of months of entitlement multiplied by full-time rate or (10×$311): $3,110.

Matching Payment: Assume $600. (The local jurisdiction could match $600 or a lesser amount.)

Actual Accelerated Payment: $600.

Loan Reduction: $1,200.

Entitlement Charge: 1¾ months (computed as $600/$311).

[FR Doc. 78-4416 Filed 2-16-78; 8:45 am]

[7710-12]

POSTAL SERVICE

[39 CFR Part 111]

FOURTH CLASS

Mailing of Books at the Library Rate

AGENCY: Postal Service.

ACTION: Proposed rule.

SUMMARY: The purpose of the proposed rule is to clarify and to add certain definitions and conditions to the postal regulation on the mailing of books by publishers and distributors at the fourth-class library rate of postage. In late 1976 Congress expanded eligibility criteria for use of the library rate so as to include books mailed from publishers and distributors to schools, colleges, universities, or libraries. The Postal Service placed the change into effect administratively upon the effective date of the legislation. The proposed rule would clarify that the library rate is limited to books mailed to public libraries and not extended to commercial libraries. It would also define the term distributor, specify that the mail must be addressed to a qualified institution, and specify the circumstances in which books sent to certain bookstores are considered to be sent to schools, colleges, universities, or libraries within the meaning of the legislation.

DATE: Comments must be received on or before March 20, 1978.

ADDRESS: Written comments must be directed to the Director, Office of Mail Classification, Rates and Classification Department, U.S. Postal Service, Washington, D.C. 20260. Copies of all written comments received will be available for public inspection and photocopying between 9 a.m. and 4 p.m., Monday through Friday, in Room 1610.

FOR FURTHER INFORMATION CONTACT:

Grayson Poats, 202-245-4602.

SUPPLEMENTAL INFORMATION: The Postal Service proposes to change 135.26c of the Postal Service Manual, chapter I of which has been incorporated by reference in the FEDERAL REGISTER, see 39 CFR 111.1, to carry out the purpose described above.

On September 24, 1976, in section 12 of Pub. L. 94-421, Congress added a

new subsection (b) to section 3683 of Title 39, United States Code, providing that books mailed from publishers or distributors to schools, colleges, universities, or libraries may use the library rate of postage. Early on in the administration of the amendment a question arose as to whether Congress intended the library rate to be limited to books mailed to "public" libraries, and not extended to commercial libraries, even though the amendment of September 24, 1976, did not so specify. Section 4554(b)(1)(B) of former title 39 permitted "public libraries", among others, to use the library rate. Section 3626(a) of existing title 39 continued the library rates for any "kind of mailer under former sections * * * 4554 of this title," i.e. public libraries. Moreover, we have not found any indication whatever in the legislative history of the new law that Congress intended to permit any libraries other than public libraries to benefit by the lower library rate. For these and other reasons, the Postal Rate Commission has recommended, and the Governors of the Postal Service have approved the recommendation that eligible mailings be limited to those for "public" libraries. Accordingly, we are proposing to modify our regulations at 135.26c to refer specifically to "public" libraries. This is consistent with existing 135. 26 and .26 a and b where reference is made to "public" libraries.

Accordingly, although exempt from the notice and comment requirements of the Administrative Procedure Act (5 U.S.C. 553 (b), (c)) regarding proposed rulemaking by 39 U.S.C. 410(a), the Postal Service invites public comments on the following proposed revisions of the Postal Service Manual:

PART 135—FOURTH CLASS

In 135.2 revise .26c to read as follows:

135.2 Classification.

* * * * *

.26 Fourth-Class Library Rate.

* * * * *

c. Books, including books to supplement other books, consisting wholly of reading matter or scholarly bibliography or reading matter with incidental blank spaces for notations, and containing no advertising matter other than incidental announcements of books, when mailed from a publisher or distributor to a school, college, university, or public library, may be mailed at the library rate. For purposes of this subsection—

(1) A distributor is an agent, business firm or similar organizations whose business is the sale, resale, shipment, or reshipment of books.

(2) Books must be addressed to the qualifying institution. An individual recipient may only be noted with an attention line.

(3) Books may be mailed to bookstores which are owned, operated and controlled by schools, colleges, or universities, including separately incorporated, nonprofit bookstores owned by those institutions.

(4) Books may not be returned to a publisher or distributor by a school, college, university or public library.

An appropriate amendment to 39 CFR 111.3 to reflect these changes will be published if the proposals are adopted.

(39 U.S.C. 401(2).)

ROGER P. CRAIG,
Deputy General Counsel.

[FR Doc. 78-4387 Filed 2-16-78; 8:45 am]

[1505-01]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 162]

[FRL 853-7; OPP-250007]

PESTICIDE PROGRAMS; GUIDELINES FOR REGISTERING PESTICIDES IN THE UNITED STATES: SUBPARTS B, D, AND E

Notification of the Secretary of Agriculture of a Proposed Regulation

Correction

In FR Doc. 78-3842, appearing on page 5857, in the issue for Friday, February 10, 1978, correct the heading to read as set forth above.

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.

[3410-34]

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[PPQ 639]

SOIL SAMPLES

List of Approved Laboratories for Receipt of Certain Soil Samples

Purpose. To amend the list of laboratories which are approved to receive interstate shipments of soil samples for processing, testing, or analysis, and also shipments of soil samples from foreign countries under permit for research or analytical purposes.

This document lists certain laboratories as indicated herein which are approved by the Deputy Administrator for receipt in interstate commerce of soil samples for processing, testing, or analysis pursuant to sections 301.48-3, 301.80-3, 301.81-3, 301.85-3, of the Japanese beetle, witchweed, imported fire ant, and golden nematode regulations (7 CFR 301.48-3, 301.80-3, 301.81-3, 301.85-3).

Also, in connection with the regulations relating to the movement into or through the United States of soil from foreign countries or Territories or possessions of the United States (7 CFR 330.300 et seq.), this document lists certain laboratories as indicated herein which the Deputy Administrator has approved for receipt, under permit, of soil samples for research or analytical purposes in accordance with safeguards and other conditions specified in the permits.

The list is amended by deletions, additions, and correcting certain listings as follows:

ADDITIONS

Agricultural Testing, Inc., San Juan, TX[2] (8-31-79).

Auburn University, Plant Disease Clinic & Nematode Analysis Laboratory, Auburn, AL.

Bromwell Engineering, Lakeland, FL[2] (11-30-79).

California, University of, Department of Soil & Plant Nutrition, Berkeley, CA.

Colorado, University of, (at Denver) Natural & Physical Sciences-Geology, Denver, CO[2] (9-30-82).

Cary Arboretum of the New York Botanical Garden, Millbrook, NY[2] (10-31-79).

Chicago, University of, Department of Geography, Chicago, IL[2] (6-30-78).

Eberline Instrument Corp., Alburquerque, NM[2] (6-30-81).

Engineering Consultants, Inc., Denver, CO[2] (9-30-79).

Fruit Growers Laboratory, Inc., Santa Paula, CA[2] (7-31-81).

Georgia, University of, College of Agriculture, Department of Agronomy, Athens, GA[2] (4-30-78).

Georgia, University of, College of Agriculture, Cooperative Extension Service, Extension Agronomy Department, Athens, GA[2] (6-30-81).

Global Sales Co., Malden, MA[2] (7-31-79).

Guam, University of, College of Agriculture & Business, Agana, Guam[2] (12-31-82).

Harvard Semitic Museum, Cambridge, MA[2] (9-30-82).

Herber, Jon P., Austin, TX[2] (11-30-79).

Hoskins-Western-Sonderegger, Inc., Lincoln, NE[2] (11-30-79).

Idaho, University of, Plant and Soil Sciences, Soil Characterization Laboratory, Moscow, ID[2] (6-30-79).

Interkiln Corporation of America, Houston, TX[2] (11-30-79).

Iowa State Highway Commission, Ames, IA.

Kirkland College, Department of Anthropology, Clinton, NY[2] (11-30-82).

Los Alamos Scientific Laboratory, Los Alamos, NM.

Massachusetts Institute of Technology, Department of Chemical Engineering, Cambridge, MA[2] (11-30-82).

Naval Nuclear Power Unit, Construction Battalion Center, Port Hueneme, CA[2] (1-1-79)

North Dakota State University, Department of Geology, Fargo, ND[2] (10-31-82)

Oregon, University of, Museum of Natural History, Eugene, OR[2] (6-30-79).

Rhoads Scientific Co., Colorado Springs, CO[2] (10-31-79).

Rohm and Haas Co., Agricultural Products Research, Spring House, PA[2] (10-31-79).

Sierra Testing & Engineering, Inc., Sierra Vista, AZ[2] (10-31-79).

Soil Conservation Service Engineers, Long Beach, CA.

Specomp, William A. Bowes, Steamboat Springs, CO[2] (7-31-78).

Suntech, Inc., Research & Engineering Division, Marcus Hook, PA[2] (7-31-79).

UOP Minerals Sciences Division, Developmental Laboratory, Tucson, AZ[2] (9-30-79).

Washington, University of, Department of Botany, Seattle, WA[2] (8-31-79).

Williams Brothers Process Services, Inc., Lab., Tulsa, OK[2] (10-31-79).

U.S. GOVERNMENT

U.S. Department of Transportation, Federal Highway Administration, Fairbank Highway Research Station, McLean, VA[2] (11-30-79).

DELETIONS

California, University of, Department of Civil Engineering, Davis, CA[2] (6-30-77).

California, University of, Department of Food Science & Technology, Davis, CA[2] (6-30-77).

Center for Climatic Research, Madison, WI[2] (6-30-77).

Georgia, University of, Department of Agronomy, Athens, GA[2] (6-30-81).

Hector Agricultural Export Co., Miami, FL[2] (6-30-79).

Jones Ferro Magnetics, Inc., Jacksonville, FL[2] (1-31-78).

Medall, S. E. and Associates, Inc., Santa Ana, CA[2] (6-30-77).

Miami, University of, IMCE, Coral Gables, FL[2] (6-30-78).

Miami, University of, Institute of Marine Science, Miami Beach, FL[2] (8-31-78).

Shannon & Wilson, Inc., Burlingame, CA

International Mineral Engineers, Inc., Golden, CO.

Rocky Mountain Geochemical Corp., Midvale, UT.

Utah State University, Soil and Water Conservation Research, Mechanic Arts, Logan, UT.

Weber State College, Department of Microbiology, Ogden, UT.

Bowes and Associates, Steamboat Springs, CO.

CORRECTIONS

Change "Abbott Laboratories, North Chicago, IL[2] (6-30-81)" to read: "Abbott Laboratories, Scientific Division, North Chicago, IL[2] (9-30-82)."

Change "American Testing Engineering Corporation, ATEC Associates, Inc., Indianapolis, IN" to read: "American Testing Engineering Corporation, ATEC Associates, Inc., Indianapolis, IN[1]."

Change "Bechtel Corp., San Francisco, CA" to read: "Bechtel Corp., San Frnacisco, CA[2] (8-31-79)."

Change "Bowes, William A., Steamboat Springs, CO[2] (7-31-78)" to read: "Specomp, Bowes, Willian A., Steamboat Springs, CO[2] (7-31-78)."

Change "Chemagro Corp., Kansas City, MO" to read: "Chemagro Corp., Kansas City, MO[2] (10-31-82)."

Change "CHEM-CRETE Corp., Menlo Park, CA" to read: "CHEM-CRETE Corp., Menlo Park, CA[2] (10-31-79)."

Change "Core Laboratories, Inc., Hobbs, NM" to read: "Core Laboratories, Inc., Midland, TX."

Change "Dames & Moore, Denver, CO" to read: "Dames & Moore, Denver, CO[2] (10-31-79)."

Change "Harlan, R. C., and Associates, San Francisco, CA" to read: "Harlan, R. C., and Associates, San Francisco, Ca[2] (11-30-79)."

Change "Hunter College, Department of Anthropology, New York, NY" to read "Hunter College, Department of Anthropology, New York, NY[2] (10-31-82)."

Change "International Fertilizer Development Center, Muscle Shoals, AL" to read: "International Fertilizer Development Center, Muscle Shoals, AL[2] (9-30-79)."

Change "International Minerals & Chemical Corporation, Libertyville, IL" to read: "International Minerals & Chemical Corporation, Terre Haute, IN."

Change "Kennecott Exploration, Inc., Salt Lake City, UT[2] (2-28-78)" to read: "Ken-

necott Exploration, Inc., Salt Lake City, UT[3] (2-28-78)."

Change "Marathon Oil Co., Littleton, CO" to read: "Marathon Oil Co., Denver Research Center, Littleton, CO[3] (10-31-79)."

Change "Massachusetts Institute of Technology, Soil Mechanics Division, Cambridge, MA" to read: "Massachusetts Institute of Technology, Soil Mechanics Division, Cambridge, MA[3] (6-30-80)."

Change "Michigan State University, Department of Botany and Plant Pathology, East Lansing, MI[3] (6-30-77)" to read: "Michigan State University, Department of Botany and Plant Pathology, East Lansing, MI."

CORRECTIONS

Change "Shannon & Wilson, Inc., Burlingame, CA" to read "Shannon & Wilson, Inc., San Francisco, CA."

Change "Spectograph Laboratory, Hayden, Colorado" to read: "Specomp, Bowes, William A., Hayden, CO."

Change "Warf Institute, Inc., Madison, WI" to read "Warf Institute, Inc., Madison, WI[3] (10-31-79)."

Change "Westvaco Corp., Laurel Research Laboratory, Laurel, MD" to read: "Westvaco Corp., Laurel Research Laboratory, Laurel, MD[3] (9-30-79)."

Change "U.S. Department of the Interior, Fish & Wildlife Service, Denver Wildlife Research Center, Denver CO[3] (6-30-78)" to read: "U.S. Department of the Interior, Fish & Wildlife Service, Denver Wildlife Research Center, Denver, CO[3] (6-30-78)."

The import permits for the following organizations have been extended as indicated:

American Testing Institute, San Diego, CA[3] (12-31-79) changed from (9-30-77).

Analytical Development Corp., Monument, CO[3] (9-30-82) changed from (6-30-79).

California State Polytechnic College, Department of Biological Sciences, Pomona, CA[3] (10-31-79) changed from (6-30-77).

Colorado, University of, Institute of Arctic and Alpine Research, Boulder, CO[3] (6-30-79) changed from (5-31-78).

E. I. du Pont de Memours & Co., Inc., Plant Research Laboratory, Wilmington, DE[3] (9-30-79) changed from (5-31-79).

Harding-Lawson Associates, San Rafael, CA[3] (9-30-82) changed from (6-30-80).

Hoffman-LaRoche, Inc., Nutley, NJ[3] (11-30-79) changed from (6-30-78).

International Flavors and Fragrances (R & D), Union Beach, NJ[3] (8-31-79) changed from (3-31-78).

Johns Hopkins University, Department of Geography and Environmental Engineering, Baltimore, MD[3] (6-30-79) changed from (6-30-77).

Lilly, Eli, & Co., Lilly Research Laboratories, Indianapolis, IN[3] (12-31-82) changed from (6-30-80).

Nebraska, University of, Department of Agronomy, Wheat Studies Laboratory, Lincoln, NE[3] (11-30-82) changed from (10-30-77).

Oklahoma State University, Department of Agronomy, Stillwater, OK[3] (10-31-79) changed from (5-31-79).

Scientific Agricultural Services, Visalia, CA[3] (12-31-81) changed from (9-30-77).

Southern Turf Nurseries, Tifton, GA[3] (12-31-82) changed from (6-30-79).

U.S. Department of the Interior, Engineering and Research Center, Bureau of Reclamation, Denver, CO[3] (12-31-79) changed from (12-31-77).

Virginia Polytechnic Institute and State University, Biology Department, Blacksburg, VA[3] (7-30-79) changed from (9-30-77).

Wisconsin, University of, Department of Bacteriology, Madison, WI[3] (10-31-82) changed from (6-30-81).

NOTE.—The Animal and Plant Health Inspection Service, Plant Protection and Quarantine Programs 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.

Done at Washington, D.C., this 10th day of February 1978.

T. G. DARLING,
Acting Deputy Administrator, Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service.

[FR Doc. 78-4325 Filed 2-16-78; 8:45 am]

[3410-07]

Farmers Home Administration

[Notice of Designation No. A566]

LOUISIANA

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in the following Louisiana Parishes as a result of drought May 1 through June 28, 1977, and excessive rainfall August 1 through October 31, 1977, in Caldwell Parish; drought May 1 through September 1, 1977, in Franklin Parish; and excessive rainfall (with flooding) April 20 through April 27, 1977, drought April 28 through June 11, 1977, and excessive rainfall July 19 through September 20, 1977, in St. Martin Parish.

Therefore, the Secretary has designated these areas as eligible for emergency loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended, and the provisions of 7 CFR 1904 Subpart C, Exhibit D, Paragraph V-B, including the recommendation of Governor Edwin W. Edwards that such designation be made.

Applications for emergency loans must be received by this Department no later than August 2, 1978, for physical losses and February 1, 1979, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, D.C., this 11th day of February 1978.

GORDON CAVANAUGH,
Administrator, Farmers Home Administration.

[FR Doc. 78-4396 Filed 2-16-78; 8:45 am]

[3410-07]

[Notice of Designation Number A570]

MISSISSIPPI

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in certain Mississippi Counties as a result of various adverse weather conditions shown in the following chart:

MISSISSIPPI

County	Nature and period of incidence	
Choctaw	Drought	Apr. 15, 1977 to July 15, 1977.
	Excessive rainfall.	Oct. 1, 1977 to Nov. 17, 1977.
Clay	Drought	Apr. 22, 1977 to July 9, 1977.
	Excessive rainfall.	Sept. 1, 1977 to Nov. 17, 1977.
Kemper	Drought	Apr. 15, 1977 to July 15, 1977.
	Excessive rainfall.	Sept. 1, 1977 to Nov. 10, 1977.
Lowndes	Drought	Apr. 15, 1977 to July 8, 1977, Aug. 9, 1977 to Sept. 5, 1977.
	Excessive rainfall.	Sept. 7, 1977 to Nov. 15, 1977.
Noxubee	Drought	Apr. 15, 1977 to July 8, 1977.
	Excessive rainfall.	Oct. 15, 1977 to Nov. 10, 1977.
Oktibbeha	Drought	Apr. 10, 1977 to July 9, 1977.
	Excessive rainfall.	Sept. 1, 1977 to Nov. 15, 1977.

Therefore, the Secretary has designated these areas as eligible for emergency loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended, and the provisions of 7 CFR 1904 Subpart C, Exhibit B, Paragraph V B, including the recommendation of Governor Cliff Finch that such designation be made.

Applications for emergency loans must be received by this Department no later than August 4, 1978, for physical losses and February 5, 1979, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated areas makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, D.C., this 11th day of February 1978.

GORDON CAVANAUGH,
Administrator,
Farmers Home Administration.

[FR Doc. 78-4397 Filed 2-16-78; 8:45 am]

[3410-07]

[Notice of Designation Number A571]

TEXAS

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in the following Texas Counties as a result of excessive rainfall October 1, 1976, through April 30, 1977, and drought May 1 through December 8, 1977, in Caldwell County; drought June 1 through October 1, 1977, in Grimes County; and drought April 1 through December 1, 1977, with very high temperatures July, August, and September 1977, in Rockwall County.

Therefore, the Secretary has designated these areas as eligible for emergency loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended, and the provisions of 7 CFR 1904 Subpart C, Exhibit D, Paragraph V-B, including the recommendation of Governor Dolph Briscoe that such designation be made.

Applications for emergency loans must be received by this Department no later than August 8, 1978, for physical losses and February 7, 1979, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, D.C., this 11th day of February 1978.

GORDON CAVANAUGH,
Administrator,
Farmers Home Administration.

[FR Doc. 78-4398 Filed 2-16-78; 8:45 am]

[3410-16]

Soil Conservation Service

RURAL ABANDONED MINE RECLAMATION PROGRAM

Intent To Prepare an Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), the Soil Conservation Service, USDA gives notice that a program environmental impact statement is being prepared for the Rural Abandoned Mine Reclamation Program, section 406, Pub. L. 95-87 (30 U.S.C. 1236).

The cumulative effects of the program may cause significant local, regional, or national impacts on the human environment. The Soil Conservation Service has determined that the preparation and review of a program environmental impact is needed.

The program includes many independent reclamation agreements on nonfederal lands in 29 States, for the control and prevention of erosion and sediment damages from unreclaimed mined lands. The planned works of improvement will include, but are not limited to installation of conservation measures for land stabilization, erosion, and sediment control; and reclamation of mined lands through conservation treatment, including measures for the conservation and development of soil, water (excluding stream channelization), woodland, wildlife, and recreation resources, and agricultural productivity of such lands.

The Soil Conservation Service will hold five concurrent public meetings on Wednesday, March 8, 1978, to solicit public participation in the development of the program environmental impact statement and preparation of the rules for implementing the program. Public participation in these meetings is urged to assist in the identification of the major envoronmetal concerns relative to this program. Written or oral presentations will be accepted between 9 a.m. and 3 p.m. and 7:30 p.m. and 10 p.m. at the following places: Morgantown, W. Va.; Pinckneyville, Ill.; Hazard, Ky.; Sheridan, Wyo.; and Washington, D.C. The specific location of each meeting may be obtained by contacting the local or State office of the Soil Conservation Service in or near the place where the meeting is to be held. Information concerning all these meetings may also be obtained by contacting Mr. James B. Newman, Chief, Conservation Programs Branch, Conservation Operations Division, Soil Conservation Service, USDA, Washington, D.C., 202-447-2324. Written statements may be sent to the Conservation Operations Division, Soil Conservation Service, USDA, P.O. Box 2890, Washington, D.C. 20013, on or before March 10, 1978.

(Catalog of Federal Domestic Assistance Programs number to be assigned.)

Dated: February 10, 1978.

EDWARD E. THOMAS,
Assistant Administrator for Land Resources, Soil Conservation Service.

[FR Doc. 78-4470 Filed 2-16-78; 8:45 am]

[6320-01]

CIVIL AERONAUTICS BOARD

[Docket Nos. 29827; 30034; 32097; Order 78-2-42]

ALLEGHENY AIRLINES, INC. AND UNITED AIRLINES, INC.

Pittsburgh-Orlando-Daytona Beach Route Proceeding

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 9th day of February 1978.

Application of Allegheny Airlines, Inc. under section 401 of the Federal Aviation Act of 1958, as amended, for an amendment of its certificate of public convenience and necessity for Route 97. Application of United Air Lines, Inc. under section 401 of the Federal Aviation Act of 1958, as amended.

Both Allegheny and United have filed motions for hearing of their applications seeking authority between some of their Northeast markets and several Florida points.[1] Allegheny's application, filed September 24, 1976, seeks authority between the coterminal points Pittsburgh and Philadelphia, Pa., and Baltimore, Md., and the coterminal points Daytona Beach, Orlando, Sarasota, and West Palm Beach, Fla. United's application, filed November 10, 1976, requests authority to add Orlando, Fla., as an itermediate point on segment 4 of Route 51. United also requests that restrictions 8 and 9 be amended to exclude Orlando from the Florida points single-plane restrictions contained there.[2]

In support of its motion, Allegheny states, among other things, that: Orlando, West Palm Beach, Daytona Beach, and Sarasota are growth markets which are underserved; Allegheny will offer improved service to these points from several Northeast cities; its extension to Florida will present Allegheny with an opportuity for

[1] Allegheny filed a motion for hearing on November 30, 1976, in Docket 29827, and United filed its motion for hearing contemporaneously with its application in Docket 30034 on November 10, 1976.

[2] Condition 8 on Route 51 states that: (8) The holder shall not provide single-plane service between points in Flordia, on the one hand, and Minneapolis-St. Paul, Minn., Milwaukee, Wis., Chicago, Ill., Detroit, Mich., or Toledo, Ohio, on route 14, on the other hand.

Condition 9 on Route 51 states that: (9) The holder shall not provide single-plane service between points in Florida, on the one hand, and New York, N.Y., Newark, N.J., Philadelphia, Pa., Baltimore, Md., Washington, D.C., Norfolk-Virginia Beach-Portsmouth-Chesapeake or Newport News-Hampton-Williamsburg-Yorktown, Va., or any other points north and east of Asheville, N.C., as described in segment 2, on the other hand.

growth which is no longer available on its system; its service proposal will benefit 326,000 passengers; and the Florida routes will generate an operating profit of $5,219,047 and an excess after return and tax of $673,432.

Answers in support of Allegheny's motion were filed by seventeen civic parties (see Appendix A).

The civic parties, in general, allege that additional single-plane and single-carrier service is needed in the Northeast-Florida markets which Allegheny proposes to enter. The Orlando parties, for example, allege that service in many of that city's markets, particularly Pittsburgh-Orlando, is seriously deficient due to high load factors.[3] Orlando further argues that the Board has not investigated its air service needs since 1961, and that many of its passengers to Disney World and other attractions have been forced to take connecting service rather than nonstop of one-stop flights. Orlando takes no position as to whether Allegheny's or United's application should be granted. Rather, it urges the Board to take this opportunity to review its air service needs.

Answers in opposition to Allegheny's motion were filed by Eastern, National, and Southern. Both Eastern and National argue that the markets Allegheny proposes to serve are small in terms of traffic, that many of them are currently served by two, three, or four trunk carriers, and that Allegheny's stimulation factors are unrealistic in light of these proposed duplications. Eastern further argues that the Pittsburgh-Orlando market—the principal thrust of Allegheny's application, where it proposes three daily nonstop round trips—is well served by Eastern with nonstop, one-stop, and other single-plane and single-carrier services.

National believes that there is no justification in terms of the development of a sound air transportation system in extending Allegheny south to Florida. This is particularly true, it contends, in view of the existence of two subsidized regional carriers in the South and excessive trunkline services in the East Coast-Florida markets. Finally, National asserts that it would be sheer folly to add a fourth carrier in these markets when there is still no evidence—based on ER-586 data—that they can profitably support three-carrier competition.

Southern argues that Allegheny's manipulation of Subpart K costs distorts the true picture of its proposal. Southern states that Allegheny has used three different time frames for computing direct and indirect costs and revenues: direct costs are for the year ended March 31, 1976; indirect costs are computed for the year ended September 30, 1975; and revenues are computed from fares in effect in November 1976. Southern has adjusted Allegheny's forecast to reflect September 1975 fares and Subpart K costs (direct and indirect), and the result is a $1,260,000 loss. Thus, it contends, Allegheny has failed to make a prime facie case that its proposal would be economical.

Delta filed an answer which neither supports nor opposes Allegheny's motion. Rather, Delta makes several recommendations which, it suggests, the Board should consider when acting on the motion and the other applications and petitions involving Florida markets.[4] First, Delta urges the Board to institute immediately a separate investigation into the air service needs of Daytona Beach and Sarasota-Bradenton.[5] Second, if the Board grants Allegheny's motion and consolidates some or all of the Daytona Beach and Sarasota-Bradenton issues into an investigation involving Northeast-Florida markets, the investigation should include the question of adding a carrier between, at a minimum, Boston/New York/Washington and Daytona Beach/Orlando/Sarasota-Bradenton/West Palm Beach. (Delta filed an application for such authority simultaneously with its answer.) Last, if a Northeast-Florida points service investigation is instituted, Delta urges the Board to remove its restrictions in the Baltimore/Philadelphia-Orlando/West Palm Beach markets before placing a new carrier in any of them.

Allegheny filed a motion on February 4, 1977, to file an unauthorized document,[6] alleging that the answers of Eastern, National, and Southern are inaccurate and/or exaggerated in terms of existing service in the markets in issue. In response to Southern, Allegheny recomputed its financial results using Subpart K unit costs for the year ended September 30, 1976, and fares effective February 1977 to arrive at an operating profit of $4.8 million. In reply to Delta's answer, Allegheny states that there is no need to have a separate hearing limited to the service needs of Daytona Beach and Sarasota; most of the markets outside of the Northeast area covered by the applications of Daytona Beach and Sarasota, e.g., Daytona Beach-Atlanta, are adequately served at present traffic levels; there are sufficient levels of service in the Northeast-Florida markets suggested by Delta, and including markets beyond those in Allegheny's application will result in another Northeast-Florida investigation, which would involve a massive undertaking by the Board and its staff. Allegheny also opposes lifting Delta's restrictions in the Baltimore/Philadelphia-Orlando/West Palm Beach markets.

United, in support of its motion, alleges that the Great Lakes area-Orlando markets are in need of additional service;[7] that its proposed service will result in an operating profit of $1,600,000; and that Eastern, the monopoly carrier in several of the markets, would still, under this proposal, retain over 50 percent of the revenue passenger miles in the Buffalo/Cleveland/Pittsburgh-Orlando markets.

Answers in support of United's motion were filed by the Niagara Frontier Transportation Authority and the Buffalo Chamber of Commerce, the Pittsburgh parties,[8] Flint, Mich. Parties,[9] the Greater Cleveland Growth Association and the Orlando parties.[10] In their answer, the Orlando parties reiterate the contentions they made in responding to Allegheny's motion.

Answers in opposition to United's motion were filed by Delta, Eastern, National, and Southern. Only Eastern opposes United's application for Pittsburgh/Cleveland/Buffalo/Rochester-Orlando authority, on the grounds that these markets are all well served by Eastern and that in the Buffalo-Orlando market—for which both United and Allegheny propose single-plane service—it will be offering a daily one-stop round trip as soon as its restriction on Pittsburgh-Atlanta turnaround service is removed.[11] All the carriers,

[3] Orlando states that the coach load factor in the Pittsburgh-Orlando market in 1974 was 71 percent and for the year ended June 30, 1976, the coach load factor was 79 percent. Thus, Orlando argues that Pittsburgh-Orlando passengers are being seriously inconvenienced, and that Eastern, the monopoly carrier, has reacted slowly to the rapid traffic increases.

[4] Petition of Daytona Beach/Volusia County Parties for a Service Investigation, Docket 29113; and Petition of Sarasota-Manatee Airport Authority for an Investigation of Sarasota-Bradenton Air Service, Docket 29125. In response to those petitions, Delta (Dockets 21926, 29177, 30125, and 30278), Northwest (Docket 30094), and Southern (Docket 29312) filed applications for new or additional authority to Florida.

[5] By Order 77-3-167, the Board granted the petitions of Daytona Beach and Sarasota-Bradenton and set the issue of Atlanta-Daytona/Sarasota service for hearing.

[6] We will grant Allegheny's motion.

[7] Appendix C sets forth United's proposed service in the Buffalo/Cleveland/Pittsburgh/Rochester-Orlando markets and the current service in each market.

[8] Allegheny County Department of Aviation, County of Allegheny; Pittsburgh Airport Advisory Committee.

[9] City of Flint and the Flint Chamber of Commerce.

[10] City of Orlando and the Greater Orlando Aviation Authority.

[11] By Order 77-1-23, the Board removed this restriction, effective February 6, 1977. Eastern now provides one daily one-stop round trip in the Orlando market. (OAG December 15, 1977.)

including Eastern, object to a hearing on those markets not covered by United's exhibits in its motion for hearing but raised by United's request to add Orlando as an intermediate point on Route 51. Specifically, they argue that United requests authority not only in the four Great Lakes-Orlando markets but also single-plane authority between (1) the Northwest/Piedmont area and Orlando; (2) Twin Cities/Milwaukee/Chicago/Detroit/Toledo and Orlando; (3) Orlando and Atlanta; and (4) intra-Florida markets (Orlando-Miami/Fort Lauderdale, Orlando-Tampa, and Orlando-West Palm Beach). Delta, Eastern, National, and Southern contend that United has failed to show that these other markets qualify for priority for hearing.

Northwest also filed an answer to United's application in which it states that if the Board hears United's application, it should also consider Northwest's application in Docket 30034 for new authority between all major Great Lakes area points (including Milwaukee, Chicago, and Minneapolis/St. Paul) and Orlando/Sarasota-Bradenton/Daytona Beach.

We have decided to institute an investigation to consider the need for new or additional service in three markets, Pittsburgh-Orlando-Daytona Beach. The Orlando-Pittsburgh market appears able to support competitive service. It is the largest market in the applications of both Allegheny and United, with 83,580 O&D plus connecting passengers in 1976 (Appendix B). The other two markets, Orlando/Pittsburgh-Daytona Beach, are included because they integrate well with the Pittsburgh-Orlando market and will maximize the operating flexibility of the applicants' service proposals. The addition of these two markets also increases the prospect of economically viable service in all three.

In accordance with the policy announced in our order instituting the Chicago - Albany / Syracuse - Boston Competitive Service Investigation (Order 77-12-50), the offer or failure to offer lower prices will be taken into account in determining whether the public convenience and necessity require the award of new authority, and if so, which carrier(s) should be selected. We therefore expect the instituted proceeding to include an examination of the need for and feasibility of various new price/quality options and related issues, as we explained in Order 77-12-50. We repeat, however, that traditional service benefits, including the benefits of city-pair competition, constitute an important consideration, which will be weighed with price and price/quality considerations. Moreover, as more fully set out in Order 77-12-50, the parties and the judge should focus on whether any new authority should be permissive, whether multiple awards should be made, whether multiple awards may encourage real price competition, and whether they are consistent with the Federal Aviation Act.

The other Northeast-Florida markets in the applications of Allegheny and United either do not suffer service deficiencies or are too small to warrant hearing in light of the Board's other priorities.[12] In addition, grant in the entirety of either or both the motions of Allegheny or United is likely to result in a large area investigation of Northeast-Florida service, which would not be an efficient utilization of the Board's resources at this time.

United's motion also fails to provide any economic evidence of the need for additional service in the markets in which it would receive single-plane authority if Orlando were added as an intermediate point on Route 51. Those markets are the Orlando-Northeast/Piedmont area, Orlando-Minneapolis/St. Paul/Milwaukee/Chicago/Detroit/Toledo, Orlando-Atlanta, and Orlando-Miami/Fort Lauderdale/Tampa.

Accordingly, *it is ordered*, That: 1. The motions for hearing of Allegheny Airlines, Docket 29827, and United Air Lines, Docket 30034, be granted with respect to the Pittsburgh-Orlando-Daytona Beach markets and denied in all other respects;

2. A proceeding to be known as the Pittsburgh-Orlando-Daytona Beach Route Proceeding, Docket 32097, be instituted and set for hearing before an administrative law judge of the Board at a time and place to be designated later;

3. The proceeding instituted in paragraph 2, above, shall consider whether the public convenience and necessity require that new authority be granted in the Pittsburgh-Orlando-Daytona Beach markets and, if so, which air carrier or carriers should be authorized and whether the new or existing authority should be subject to any terms, conditions or limitations;

4. Any authority awarded in this proceeding shall be granted without eligibility for subsidy;

5. The applications of Allegheny Airlines, Docket 29827, and United Air lines, Docket 30034, for authority in the Pittsburgh-Orlando-Daytona Beach markets be consolidated with the proceeding instituted by paragraph 2, above; to the extent not consolidated, these applications be dismissed;

6. Allegheny Airlines' motion to file an otherwise unauthorized document be granted;

7. All carriers filing applications in this proceeding shall file environmental evaluations pursuant to section 312.12 of the Board's Procedural Regulations within 30 days of the date of service of this order;

8. Applications, motions to consolidate, and petitions for reconsideration of this order shall be filed within 20 days of the service date of this order and answers thereto shall be filed within 15 days thereafter;

9. Allegheny Airlines, Delta Air Lines, Eastern Air Lines, National Airlines, Northwest Airlines, Southern Airways, United Air Lines, the civic parties in Appendix A of this order, the Niagara Frontier Transportation Authority and the Buffalo Chamber of Commerce, the Pittsburgh parties, and the Flint, Mich. parties be made parties to the proceeding instituted by paragraph 2, above; and

10. This order shall be served upon all parties to the proceeding instituted by paragraph 2, above.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,[13]
Secretary.

APPENDIX A—ANSWERS FILED IN SUPPORT OF ALLEGHENY'S MOTION FOR HEARING

1. Greater Cleveland, Ohio Growth Association (Cleveland parties).
2. Pittsburgh Airport Advisory Committee (Pittsburgh).
3. State of Maryland.
4. City of Orlando, Fla., and the Greater Orlando Aviation Authority (Orlando parties).
5. State of Rhode Island.
6. City of Daytona Beach, Fla.; Daytona Beach Chamber of Commerce; County of Volusia; and the Volusia County Airports Advisory Board (Daytona Beach parties).
7. County Council of Volusia County, Fla. (Volusia County Council).
8. Sarasota-Manatee, Fla., Airport Authority (Sarasota parties).
9. Massachusetts Port Authority and the Greater Boston Chamber of Commerce (Massachusetts parties).
10. Commissioner of Transportation of New York State (New York parties).
11. County of Albany, N.Y.
12. Joint Chamber of Commerce Airport Committee of Albany, Schenectady, Troy, and Colonie, N.Y. (Capital District of New York parties).
13. Islip, Long Island.
14. City of Philadelphia and the Greater Philadelphia Chamber of Commerce (Philadelphia parties).
15. Rochester, N.Y., Area Chamber of Commerce (Rochester parties).
16. State of Connecticut Department of Transportation.
17. Greater West Palm Beach Chamber of Commerce and the Board of County Commissioners, Palm Beach County, Fla. (Palm Beach parties).

APPENDIX B

The largest markets in which Allegheny proposes service already receive sufficient single-plane and single-carrier service. The

[12] See discussion in Appendix B.

[13] All Members concurred.

West Palm Beach-Boston market, which generated 71,770 local O&D plus interline connecting passengers in 1976, has single-plane service from Delta and Eastern on a nonstop, one-stop, and two-stop basis with B—727-200 equipment and many online connections available throughout the day.[1] Allegheny proposes to add one one-stop round trip with DC-9-31 equipment in a 100-seat single-class configuration. In the West Palm Beach-Philadelphia market, which generated 60,940 passengers in 1976, both Eastern and Delta offer single-plane one-stop service and Eastern offers one nonstop round trip daily. Both carriers offer many online connections throughout the day. Allegheny would add to this large amount of existing service one daily one-stop round trip with DC-9-31 equipment.

Several markets in Allegheny's service proposal are without single-plane service at present but they generate at most 15 passengers per day each way. This amount of traffic is too small to warrant inclusion in this case, especially in light of numerous interline and/or online connecting opportunities available in each of these markets.

Other Florida-Northeast markets in which Allegheny proposes to operate are well served in relation to the traffic they generate and the existing service. The Orlando-Buffalo market—35 passengers per day—now receives single-plane service from Eastern, a daily one-stop round trip, and numerous connecting services. In the Sarasota-Boston market—37 passengers per day each way—Eastern offers one daily one-stop round trip with B-727-200 equipment departing at a convenient early morning hour (7:22 a.m.) from Boston and one northbound two-stop flight. In addition, Eastern provides online connections southbound at 7:10 a.m., 9:14 a.m., 9:56 p.m., 12:29 p.m., 4:30 p.m., and 7:05 p.m. Allegheny would add one two-stop round trip to the market, which offers no elapsed time savings over the present online connections. Northbound, there are seven online connecting opportunities well spaced throughout the day from 7 a.m. to 10:20 p.m. moreover Allegheny's proposed two-stop service would be slower than a number of the existing online connections.

A final example of the service in the markets which Allegheny proposes to serve is the Sarasota-Philadelphia market which generates only 32 passengers per day each way. Eastern offers single-plane one-stop service northbound in addition to seven online connections throughout the day. Southbound, Eastern offers eight online connections and National offers one online connection. Allegheny proposes to add only one daily one-stop round trip.

United's application for authority in the Orlando - Buffalo / Cleveland / Pittsburgh/ Rochester markets is subject to the same criticism as Allegheny's application: small O&D markets already receiving sufficient service (Appendix C). The Orlando-Buffalo market has been discussed in considering Allegheny's motion and application. The Orlando-Cleveland market generates only 50 passengers per day each way yet has one daily nonstop round trip and one daily one-stop round trip by Eastern in addition to three online connecting flights southbound and two northbound on Eastern. Finally, while no carrier is authorized to provide single-plane service in the Orlando-Rochester market, it is a very small market—only 14 passengers per day each way—and receives numerous interline connecting services.

[1] All references to service are from the December 15, 1977, OAG.

APPENDIX B

Allegheny's Florida Service Proposal

Market		CY 1976 O&D Plus Connecting Number	CY 1976 O&D Plus Connecting Per Day Each Way	Dec. 15, 1977 Single-Plane Service	Allegheny's Proposed Service
Orlando	-Pittsburgh	83,580	114	2 0-S RT 2 1-S SB	3 0-S RT
	-Buffalo	25,650	35	1 1-S RT	1 1-S RT
	-Rochester	10,150	14	No carrier has single-plane authority	1 1-S RT
	-Syracuse	18,340	25	1 1-S RT	1 1-S RT 1 2-S RT
	-Albany	9,950	14	No carrier has single-plane authority	1 2-S RT
Daytona Beach	-Philadelphia	14,700	20	1 1-S NB	1 0-S RT
	-Pittsburgh	21,110	29	1 1-S NB	1 0-S RT
	-Hartford	10,860	15	None	1 1-S RT
	-Cleveland	8,770	12	None	1 1-S RT
	-Providence	2,860	4	1 1-S SB	1 2-S RT
Sarasota	-Philadelphia	23,060	32	1 1-S SB	1 1-S RT
	-Baltimore	7,110	10	None	1 1-S RT
	-Boston	26,880	37	1 1-S RT 1 2-S NB	1 2-S RT
	-Hartford	10,080	14	2 1-S SB	1 2-S RT
	-Providence	3,320	4	2 1-S NB	1 3-S RT
W. Palm Beach	-Baltimore	10,650	15	1 1-S SB	1 0-S RT
	-Philadelphia	60,940	83	1 0-S RT 1 1-S RT 1 1-S SB 1 2-S SB 2 1-S NB	1 0-S RT
	-Syracuse	10,690	15	1 3-S SB 1 2-S NB	1 1-S RT
	-Boston	71,770	98	1 0-S RT 2 1/2 1-S RT 2 2-S NB	1 1-S RT

Appendix C

United's Orlando Service Proposal

Market		CY 1976 O&D Plus Connecting Number	CY 1976 O&D Plus Connecting Per Day Each Way	Dec. 15, 1977 Single-Plane Service	United's Proposed Service
Orlando	-Cleveland	36,810	50	1 0-S RT 1 1-S RT	1 0-S RT
	-Pittsburgh	83,580	114	2 0-S RT 2 1-S SB	2 0-S RT
	-Buffalo	25,650	35	1 1-S RT	1 0-S RT
	-Rochester	10,150	14	No carrier has single-plane authority	1 1-S RT

[FR Doc. 78-4321 Filed 2-16-78; 8:45 am]

[6320-01]

[Docket 30777 Agreement CAB 27033 R-1 through R-6; Agreement CAB 27034 R-1, R-2, R-3, R-6 through R-13; Agreement CAB 27035 R-1 through R-5; Agreement CAB 27059 R-1 and R-2; Agreement CAB 27062; Agreement CAB 27082; Order 78-2-53]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Agreements Adopted by the Traffic Conferences Relating to Passenger Fare Matters

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 9th day of February 1978.

Agreements have been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's economic regulations between various air carriers, foreign air carriers, and other carriers embodied in the resolutions of the Traffic Conferences of the International Air Transport Association (IATA).

The agreements would largely revalidate existing resolutions with editorial and clarifying amendments as well as changes in internal IATA procedures. In addition, Agreements CAB 27033, CAB 27035, CAB 27059, CAB 27062, and CAB 27082 would amend currency-related surcharges on foreign-originating passenger fares. The amended surcharges would relate selling fares in local currencies more closely to current exchange rates, and will be approved. Agreement CAB 27033 would also amend the rerouting provisions of Resolution 021L (special rules for fares currency adjustments) to make them consistent with the basic fare calculation provisions of the resolution.

Agreement CAB 27034 would amend Resolution 014a (construction rule for passenger fares) to add Bangladesh to the list of countries in the Indian Subcontinent area where all service in certain aircraft types is defined as economy class service; establish a standard format for applications for group inclusive tour, affinity group, and incentive/own use group fares. The agreement will be approved with the exception of Resolution 279 (voluntary changes to tickets), which the carriers propose to amend in the same way as the agreement we disapproved in Order 77-2-68, February 14, 1977. In that action, the Board noted that the existing and proposed provisions of Resolution 279 could result in a passenger who changes his itinerary after commencing travel paying a higher fare than if he had purchased identical transportation at the point of origin; and therefore we conditioned our approval of the resolution to provide that in the event of rerouting, the fare will be recalculated from the point of origin on the basis of the rates that would have applied for the revised itinerary had the ticket been purchased before departure.[1]

The Board, acting pursuant to sections 102, 204(a), and 412 of the Act, makes the following findings:

1. It is not found that the following resolutions, which have direct application in air transportation as defined by the Act, are adverse to the public interest or in violation of the Act, provided that approval is subject, where applicable, to conditions previously imposed by the Board:

[1] Our action here on Agreement CAB 27034 will also approve the revalidation of Resolution 275bb (passenger ticket—conditions of contract) which provides that carriers may include on their tickets and baggage checks a disclosure notice of their own choosing explaining the status of reservations in the event of overbooking on their part. While we continue to believe that notice to consumers of this practice is in the public interest, we serve notice that to the extent this resolution may be inconsistent with any rule finally adopted in the rulemaking proceeding in Docket 29139, *Reexamination of the Board's Policies Concerning Deliberate Overbooking and Oversales, the Board's rules will prevail.*

Agreement CAB	IATA No.	Title	Application
27033:			
R-1	021b	Rates of Exchange (Amending)	1;2;3
R-2	021L	Special Rules for Fares Curency Adjustments (Amending).	1;2;3
R-3	021t	Conversion of Minimum Tour Prices Expressed in Basic Currency (Amending).	1;2;3
R-6	023a	Rounding-off Passenger Fares (Amending)	1;2;3;1/2;2/3;3/1;1/2/3
27034:			
R-1	002	Standard Revalidation Resolution	1;2;3;1/2;3/1;1/2/3
R-2	011	Mileages and Routes for Tariff Purposes (Amending).	1;2;3;1/2;2/3;3/1;1/2/3
R-3	014a	Construction Rule for Passenger Fares (Amending).	1;3;1/2;2/3;3/1;1/2/3
R-6	07600	Form of Application for Incentive Group Fares (New).	1;2;3
R-7	076z	Form of Application for Affinity Group Fares (Adopting, Revalidating and Amending).	1;2;3;1/2;2/3;3/1;1/2/3
R-8	076zz	Form of Application for Own Use Group Fares (Adopting, Revalidating and Amending).	1;2/3;3/1;1/2/3
R-9	084zz	Form of Application for Group Inclusive Tour Fares (New).	1;3;1/2;3/1;1/2/3
R-10	116	Meeting Fares, Charges and Practices (Amending).	1;2;3;1/2;2/3;3/1;1/2/3
R-11	151a	Circle Trip Discount (Amending)	1;2;3;1/2;2/3;3/1;1/2/3
R-12	200h	Free and Reduced Fare Transportation for Inaugural Flights (Amending).	1;2;3;1/2;2/3;3/1;1/2/3

Agreement CAB	IATA Resolution
27035:	
R-2	JT23, JT123(Mail 185)022dd.
R-3	JT12(Mail 185)022gg (North Atlantic).
R-4	JT12(Mail 185)022hh (Middle Atlantic).

Agreement CAB	IATA No.	Title	Application
27062	022c	TC3 Adjustment Factors for Sales of Passenger Air Transportation.	3
27082	022f	JT31 (South Pacific) Adjustment Factors for Sales of Passenger Air Transportation (Readopting and Amending).	3/1

2. It is not found that the following resolutions, which are incorporated in the agreements indicated and have indirect application in air transportation as defined by the Act, are adverse to the public interest or in violation of the Act:

Agreement CAB	IATA No.	Title	Application
27033:			
R-4	022a	TC2 (Within Europe) Adjustment Factors for Sales of Passenger Air Transportation (Revalidating and Amending).	2
R-5	022b	TC2 (Except Within Europe) Adjustment Factors for Sales of Passenger Air Transportation (Revalidating and Amending).	2

Agreement CAB	IATA Resolution
27035:	
R-1	200(Mail 185)022aa.
R-5	JT12(Mail 185)022ii (South Atlantic).

Agreement CAB	IATA No.	Title	Application
27059:			
R-1	022a	TC2 (Within Europe) Adjustment Factors for Sales of Passenger Air Transportation (Amending).	2
R-2	022b	TC2 (Except Within Europe) Adjustment Factors for Sales of Passenger Air Transportation (Amending).	2

3. It is found that the following resolution, incorporated in Agreement CAB 27034 as indicated, is adverse to the public interest and in violation of the Act:

Agreement CAB	IATA No.	Title	Application
27034:			
R-13	279	Voluntary Changes to Tickets (Amending)	1;2;3;1/2;2/3;3/1;1/2/3

Accordingly, *it is ordered*, That:

1. Those portions of Agreements CAB 27033, CAB 27034, CAB 27035, CAB 27062, CAB 27082 and CAB 27059 set forth in finding paragraphs 1 and 2 above are approved subject, where applicable, to conditions previously imposed by the Board; and

2. Agreement CAB 27034, R-13, is disapproved.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,[1]
Secretary.

[1] All members concurred.

[FR Doc. 78-4322 Filed 2-16-78; 8:45 am]

[6320-01]

[Docket No. 31979]

KODIAK-WESTERN ALASKA AIRLINES, INC. ENFORCEMENT PROCEEDING

Assignment of Proceeding

This proceeding is hereby assigned to Administrative Law Judge Burton S. Kolko. Future communications should be addressed to Judge Kolko.

Dated at Washington, D.C., February 13, 1978.

NAHUM LITT,
Chief Administrative Law Judge.

[FR Doc. 78-4438 Filed 2-16-78; 8:45 am]

[6320-01]

[Order No. 78-2-57; Docket Nos. 30756, 31215, 27785]

PAN AMERICAN WORLD AIRWAYS, INC.

Order

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 9th day of February, 1978. Application of Pan American World Airways, Inc. for authority to engage in discussions relating to North/Central Pacific cargo rates. Application of Pan American World Airways, Inc. for authority to engage in discussions relating to passenger fares and cargo rates within the Far East and Pacific. Application of Pan American World Airways, Inc. for authority to engage in

discussions relating to Japan-originating group inclusive-tour fares.

We have before us three requests for authorizations to hold intercarrier discussions on rate and fare matters. The first filed by Pan American World Airways, Inc. (Pan American), on April 18, 1977, seeks permission to engage in discussions with Japan Air Lines Co., Ltd. (JAL), Northwest Airlines, Inc. (Northwest), The Flying Tiger Line, Inc. (Flying Tiger), and any other interested carriers, about North/Central Pacific cargo rates "with a view toward reaching an agreement on rates for submission to the Board for approval." Docket 30756. In support of its petition, Pan American states that the Board initially approved an International Air Transport Association (IATA) agreement[1] on North/Central Pacific rates, by Order 76-9-13, September 2, 1976, but then by Order 77-3-111, March 18, 1977, stayed execution of the agreement insofar as it would have established specific commodity rates for electronics products; that Northwest, not an IATA member and therefore not a party to the agreement, filed tariffs proposing a North/Central Pacific rate structure which differed from IATA's; that the Government of Japan, although it approved the IATA agreement, will not approve any tariff changes implementing either revised structure because of their disparities as well as the Board's stay of approval; that the present request stems from the disapprovals of both Japan and the United States and the necessity to devise a rate structure consistent with government actions and satisfactory to all countries concerned; and that, because Northwest is not a member, the continuing Board authorization of carrier rate talks within IATA cannot be utilized for resolving the issue at hand. JAL filed an answer in support of Pan American's request; an answer was filed by the Western Electronics Manufacturers Association (WEMA) and several electronic parts shippers, who state that they do not object to the discussions so long as they are subject to customary safeguards, including shipper participation.

Second, on July 29, 1977, Pan American requested permission to hold discussions with any interested carriers in a joint meeting between carrier members of IATA and of the Orient Airlines Association (OAA), concerning passenger fares and cargo rates within TC3 (within the Far East/Pacific). Docket 31215. Pan American states that, in many cases, it has not been possible to effectuate IATA fare and rate agreements pertaining to TC3 because of lack of approval by some countries whose national carriers are not IATA members; that OAA, formed out of the carriers' need to reach agreements accommodating the varying views of different governments, has been making efforts to confront the problem of noncompliance with tariffs, but has experienced difficulties; that, at the March 1977 meeting of IATA Traffic Conference 3, it was decided to hold a jont meeting of IATA and OAA in order to consider tariff compliance problems in the Orient; and that, while the Board might disclaim jurisdiction with respect to the proposed meeting since the matters involved do not directly affect air transportation within the meaning of the Act, exercise of Board jurisdiction and approval are more appropriate, because many of the fares and rates involved are combinable with and affect prorates payable on, fares and rates to/from U.S. points. Answers supporting this petition have been filed by JAL and Flying Tiger.[2]

Finally, on August 12, 1977, Pan American requested permission to hold discussions with JAL, Northwest and any other interested scheduled-service carriers on modifications of the levels and conditions of the group inclusive-tour (GIT) 30/40 fares from Japan to the United States. Docket 27785. Pan American States that, by Order 75-6-58, June 12, 1975, the Board authorized it, JAL and Northwest to hold discussions on Japan-U.S. fares, and the carriers reached an agreement, approved by Board Order 75-9-106, September 9, 1975, that included an intention to introduce GIT 30/40 fares for Japan-originating travel beginning October 1, 1975; that the Board later, by Order 76-3-95, March 15, 1976, approved additional discussions on the GIT 30/40 fares and these resulted in an agreement approved by Board Orders 76-9-160, September 29, 1976, and 77-3-77, March 14, 1977; that, since the second round of discussions, there have been "significant changes in the Japan-United States market which necessitate further discussions with respect to the GIT 30/40 fares," namely, increasing operating expenses, less-than-expected traffic growth, and high cancellation rates; that the new discussions are needed to consider possible adjustments to the cancellation provisions and to the add-on levels for travel originating at Japan interior points; that "it would also be appropriate and beneficial to implement special add-ons for the Hawaii Neighbor Islands"; and that, again, IATA cannot be employed to resolve the matter because Northwest is not a member. JAL has filed an answer in support of this petition as well, and Pan American has filed a motion requesting expedited consideration of its petitions in Dockets 31215 and 27785.

The Board has decided to deny Pan American's requests.

The carrier members of IATA have long been authorized by the Board to meet and agree on fares and rates, provided the agreements are submitted for Board approval. We have begun an informal review of our approval of the IATA rate conference procedure, but our 1946 approval still stands. Nevertheless, individual carrier participation in IATA rate discussions remains voluntary, and we will respect any carrier's decision against IATA membership. Non-IATA carriers have functioned as a competitive force for innovative fare and rate structure proposals and for low rates in international markets. We intend to preserve that position of independence of the non-IATA carriers, pending our IATA review, in line with our policy of fostering low rates, and hence we will not undermine it by authorizing rate talks, such as are proposed here, which may serve to force non-IATA carriers into industry rate agreements.

While it may be argued that carrier participation in these talks would be completely voluntary and that no carrier is obliged to participate, the fact remains that the insistence of some governments that fares and rates be fixed by consensus, by the concerted action of all third and fourth freedom carriers, and the more subtle pressures for agreement by other governments, serve to pressure non-IATA carriers not only to participate in such talks but also to seek and achieve compromise agreement as well. The competitive spur could very well be blunted in these circumstances, to the detriment of low fares and rates for consumers.

With these general considerations in mind, we are not convinced that the public interest would be advanced by allowing all competitors—IATA and non-IATA members—to meet and discuss how they will, or will not, compete in cargo rates or ex-Japan group fares. Pan American has not demonstrated that the benefits of such talks outweigh their anti-competitive implications or that, without the talks, the U.S. carriers cannot offer competitive rate alternatives through the usual unilateral tariff-filing procedures.

In particular, our substantive position on North/Central Pacific cargo rates is well known. The carriers involved are well aware of the rate structure the Board could find acceptable.[3] They are capable now of resolving the problem of obtaining the revenue in-

[1] Agreement CAB 25719, R-1 through R-11, intended for effect through September 1977.

[2] Flying Tiger's answer was filed with a motion for leave to file a late document, which will be granted.

[3] See, for example, Order 76-3-111, March 16, 1976, 76-5-129, May 26, 1976, and 77-6-85, June 16, 1977, as well as Order 76-9-13 supra.

creases in the Pacific to which they are entitled, without special discussions, and we see no reason to permit talks. To the extent part of the problem with transpacific rates may be an intergovernmental one, it can be handled at that level.

The requested talks on TC3 fares and rates, while presenting a different set of facts, will likewise be denied because of their anti-competitive nature. In this case, it is alleged that the focus of discussions would be on tariff compliance problems in the Far East and Pacific. The level of fares and rates to and from the United States would not be at issue. We understand that marketplace fares and rates well below "approved" levels have long been prevalent in this area of the world. This works to the detriment of U.S. passengers and shippers who may pay high "tariff" prices for the same services others receive at lower marketplace prices. Consequently, U.S. carriers may also be paying inflated prorates. Our disapproval of the request for talks stems not from our acceptance of such practices but rather from our concern that discussions among competitors to ameliorate the situation could easily result in increases in the prices actually being charged. As we see it, the issue is not really one of tariff compliance of prorates—rather it is the prices being charged for the transportation provided. Presumably carriers are knowledgeable about prevailing market prices and nothing prevents them from individually meeting competition by filing matching tariffs.

Accordingly, *It is ordered* That:

1. The petitions of Pan American World Airways, Inc., in Dockets 30756, 31215 and 27785 are denied;

2. The motion by The Flying Tiger Line, Inc., for leave to file an otherwise unauthorized document in Docket 31215 is granted; and

3. This order will be served on Pan American World Airways, Inc., Northwest Airlines, Inc., The Flying Tiger Line, Inc., Japan Air Lines Co., Ltd., and the Western Electronics Manufacturers Association.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

All Members concurred.

[FR Doc. 78-4439 Filed 2-16-78; 8:45 am]

[6335-01]

COMMISSION ON CIVIL RIGHTS

SOUTH DAKOTA ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the South Dakota Advisory Committee (SAC) of the Commission will convene at 9:30 a.m. and will end at 3 p.m. on March 3, 1978 in the Rushmore Plaza Civic Center, Room 205, 444 Mt. Rushmore Road North, Rapid City, S. Dak. 57701.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Rocky Mountain Regional Office of the Commission, Executive Tower Inn, Suite 1700, 1405 Curtis Drive, Denver, Colo. 80202.

The purpose of this meeting is to discuss planning committee activities during the coming year.

Dated at Washington, D.C., February 10, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 78-4408 Filed 2-16-78; 8:45 am]

[3510-24]

DEPARTMENT OF COMMERCE

Economic Development Administration

BOLTS, NUTS, AND LARGE SCREWS OF IRON OR STEEL

Study of Producing Firms

The Department of Commerce has completed a study of the industry producing bolts (except mine-roof bolts), nuts, and large screws of iron or steel. The study was prepared under section 264 of the Trade Act of 1974. Section 264 requires such a study whenever the U.S. International Trade Commission conducts an investigation under section 201. On December 8, 1977, the Commission submitted a report to the President on the industry in question. The Commission determined that bolts, nuts, and large screws of iron or steel are being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or threat thereof, to the domestic industry.

FIRMS ELIGIBLE FOR ADJUSTMENT ASSISTANCE

Section 264 requires that this study look at "the number of firms in the domestic industry * * * which have been or are likely to be certified as eligible for adjustment assistance." Thus far, no petitions for certification have been filed, and no firms in the industry have been certified.

The domestic industry consists of approximately 180 firms. Any firm desiring certification must show that increases in imports "contributed importantly" to (a) the separation, or threat thereof, of a significant number or proportion of its workers, and (b) an absolute decrease in sales or production. The requirement of increased imports could probably be satisfied. Some firms could probably also satisfy the requirements for employment and sales or production declines. A showing that the increased imports "contributed importantly" to the aforementioned declines probably could be made, but this would not necessarily be true for specific firms in the industry.

Despite these probabilities, it is unclear that many firms in the industry desire or need financial assistance that cannot be obtained from private sources. It is possible that as many as ten firms in the industry will be certified. Nevertheless, without specific facts on the needs and experience of individual firms there is no way to be certain. Each case would have to be judged on its own merits in the light of whatever evidence the petitioning firm could adduce concerning its own situation.

SOURCES OF FEDERAL ASSISTANCE

Three Federal agencies have programs that might facilitate orderly adjustment of firms to import competition. The Economic Development Administration (EDA), in the Department of Commerce, has several relevant programs. One authorizes technical assistance, direct loans, and loan guarantees to firms that have been certified as eligible for adjustment assistance. Another authorizes public works grants, loans, and loan guarantees for communities that have been injured by imports. Still another provides for loans and guarantees for firms in designated "redevelopment areas" and "economic development centers." Such places are also eligible for public works.

The Small Business Administration (SBA), an independent agency, has three programs that might help. The most important is a program of direct, participating, and guaranteed loans to small businesses. In general, SBA handles loans of $350,000 or less, while EDA handles the larger loans.

The Farmers Home Administration (FmHA), in the Department of Agriculture, has two relevant programs. One provides business loan guarantees to firms located in areas other than cities of over 50,000 population. The other entails grants and loans to public entities in areas other than cities of over 10,000 population.

Additional information about the adjustment program and copies of this report, U.S. Department of Commerce Report to the President, "Prospects for Adjustment Assistance for Firms Producing Bolts, Nuts, and Large Screws of Iron or Steel," are available from the Office of Public Affairs, Economic Development Administration, Room 7019, U.S. Department of Com-

merce, Washington, D.C. 20230, telephone 202-377-5113.

D. PATRICIA KEELER,
Director, Office of Planning and Program Support.

[FR Doc. 78-4409 Filed 2-16-78; 8:45 am]

[3510-24]

HIGH-CARBON FERROCHROMIUM INDUSTRY

Study of Producing Firms

The Department of Commerce has completed a study of the high-carbon ferro- chromium industry. The study was prepared under section 264 of the Trade Act of 1974. Section 264 requires such a study whenever the U.S. International Trade Commission conducts an investigation under section 201. On December 1, 1977, the Commission submitted a report to the President on the high-carbon ferrochromium industry. The Commission determined that high-carbon ferrochromium is being imported into the United States in such increased quantities as to be a substantial cause of a threat of serious injury, to the domestic industry.

FIRMS ELIGIBLE FOR ADJUSTMENT ASSISTANCE

Section 264 requires that this study look at "the number of firms in the domestic industry * * * which have been or are likely to be certified as eligible for adjustment assistance." Thus far, one petitions for certification have been filed. Action on this petition is still pending.

The domestic industry consists of five firms. Any firm desiring certification must show that increases in imports "contributed importantly" to (a) the separation, or threat thereof, of a significant number or proportion of its workers, and (b) an absolute decrease in sales or production. The requirement of increased imports could probably be satisfied. Some firms could probably also satisfy the requirements for employment and sales or production declines. A showing that the increased imports "contributed importantly" to the aforementioned declines probably could be made, but this would not necessarily be true for specific firms in the industry.

Despite these probabilities, it is doubtful that more than one firm in the industry desires or needs financial assistance that cannot be obtained from private sources. It is therefore unlikely that more than one firm in the high-carbon ferrochromium industry will be certified. Nevertheless, without specific facts on the needs and experience of individual firms there is no way to be certain. Each case would have to be judged on its own merits in the light of whatever evidence the petitioning firm could adduce concerning its own situation.

SOURCES OF FEDERAL ASSISTANCE

Three Federal agencies have programs that might facilitate orderly adjustment of firms to import competition. The Economic Development Administration (EDA), in the Department of Commerce, has several relevant programs. One authorizes technical assistance, direct loans, and loan guarantees to firms that have been certified as eligible for adjustment assistance. Another authorizes public works grants, loans, and loan guarantees for communities that have been injured by imports. Still another provides for loans and guarantees for firms in designated "redevelopment areas" and "economic development centers." Such places are also eligible for public works.

The Small Business Administration (SBA), an independent agency, has three programs that might help. The most important is a program of direct, participating, and guaranteed loans to small businesses. In general, SBA handles loans of $350,000 or less, while EDA handles the larger loans.

The Farmers Home Administration (FmHA), in the Department of Agriculture, has two relevant programs. One provides business loan guarantees to firms located in areas other than cities of over 50,000 population. The other entails grants and loans to public entities in areas other than cities of over 10,000 population.

Additional information about the adjustment assistance program and copies of the report, Prospects for Adjustment Assistance for Firms in the High-Carbon Ferrochromium Industry, are available from the Office of Public Affairs, Economic Development Administration, Room 7019, U.S. Department of Commerce, Washington, D.C. 20230, telephone 202-377-5113.

D. PATRICIA KEELER,
Director, Office of Planning and Program Support.

[FR Doc. 78-4410 Filed 2-16-78; 8:45 am]

[3510-25]

Industry and Trade Administration

BRIGHAM YOUNG UNIVERSITY

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5 p.m. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 77-00156. Applicant: Brigham Young University, Provo, Utah 84602. Article: Laser Kit, CO_2, Model K-103 and accessories. Manufacturer: Lumonics Research, Ltd., Canada. Intended use of article: The article will be used for teaching students how to build a laser; how various operating parameters affect laser performance and to do research on laser driven chemistry, especially isotopically selective reactions such as occur in SF_6 and in formaldehyde. The article will also be used in the following courses taught at the university: Chemistry 464, Chemistry 697R and 797R, and Physics 513, to prepare students for careers in chemistry and physics.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article is an unassembled carbon dioxide laser providing a pulse energy of at least one joule. The National Bureau of Standards advises in its memorandum, dated December 12, 1977, that: (1) The specifications of the article described above is pertinent to the applicant's intended purposes, and (2) it knows of no domestic instrument or apparatus in kit form of equivalent scientific value to the foreign article for the applicant's intended uses.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Statutory Import Programs Staff.

[FR Doc. 78-4370 Filed 2-16-78; 8:45 am]

[3510-25]

GEOPHYSICAL INSTITUTE, UNIVERSITY OF ALASKA

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and

the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5 p.m. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 78-00009. Applicant: Geophysical Institute, C. T. Elvey Building, University of Alaska, Fairbanks, Alaska 99701. Article: Micrometeorological system (one without anemometer wet and dry bulb psychrometer and one with solid state humidity sensor). Manufacturer: Grant Instruments, United Kingdom. Intended use of article: The article is intended to be used in climatological research which includes the study of the potential for air pollution in Glacier Bay National Monument, the climatological influence of a large lake on its surroundings in interior Alaska and solar radiation measurements in remote areas in Alaska.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: This application is a resubmission of Docket No. 77-00203 which was denied without prejudice to resubmission on August 3, 1977 for informational deficiencies. The foreign article provides the capability of onsite climatological data recording (unattended long-term recording on temperature, humidity, wind speed, and direction, etc.) in a remote arctic environment. The National Bureau of Standards advises in its memorandum, dated January 25, 1978, that: (1) The capability of the article described above is pertinent to the applicant's intended purpose, and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director,
Statutory Import Programs Staff.

[FR Doc. 78-4371 Filed 2-16-78; 8:45 am]

[3510-25]

INDIANA UNIVERSITY

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5 p.m. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 77-00356. Applicant: Indiana University, 1101 East 17th Street, Bloomington, Ind. 47401. Article: Complete Polarized Ion Source System. Manufacturer: ANAC, Ltd., New Zealand. Intended use of article: The article is intended to be used to provide a directed beam of spin-polarized hydrogen or deuterium ions of high intensity and high degree of polarization which are injected in a two-stage cyclotron accelerator system for acceleration to 200 MeV and directed onto suitable targets in order to study nuclear reactions with polarized beams. The objectives to be pursued in the course of the investigation are: (a) To obtain detailed information on the spin-dependent components of the nuclear forces involved in the scattering or reaction processes, and (b) to determine properties of nuclear states selectively excited by the spin-polarized ion beams. The article will also be used by graduate students in physics as part of their post-graduate education and training in Ph. D. level research in nuclear physics.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides a polarized ion source capable of yielding positive ion beams of high intensity with a guaranteed source output of at least 3 microamperes. The National Bureau of Standards advises in its memorandum, dated December 13, 1977, that: (1) The capability of the article described above is pertinent to the applicant's intended use, and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended purposes.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director,
Statutory Import Programs Staff.

[FR Doc. 78-4372 Filed 2-16-78; 8:45 am]

[3510-25]

NEW YORK UNIVERSITY SCHOOL OF MEDICINE

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5 p.m. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 78-00019. Applicant: New York University School of Medicine, Department of Dermatology, 550 First Avenue, New York, N.Y. 10016. Article: Dermovac Suction Blister Device. Manufacturer: Instrumentarium, Finland. Intended use of article: The article is intended to be used to produce epidermal blisters at the level of the dermal/epidermal junction without inflammatory or red blood cell contamination of blister fluid which may also be collected to perform epidermal biopsies. The biopsy material will be examined for and used as a source of epidermal Langerhans cells which have been implicated in delayed hypersensitivity reaction.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides blisters (by suction) of preselected size and number on human skin. The Department of Health, Education, and Welfare advises in its memorandum, dated January 5, 1978, that: (1) The capability of the article described above is pertinent to the applicant's intended use, and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the

foreign article for the applicant's intended purposes.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director,
Statutory Import Programs Staff.

[FR Doc. 78-4373 Filed 2-16-78; 8:45 am]

[3510-25]

NORTHWESTERN UNIVERSITY MEDICAL SCHOOL

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5 p.m. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 77-00024. Applicant: Northwestern University Medical School, Department of Pharmacology, 303 East Chicago Avenue, Chicago, Ill. 60611. Article: Nihon-Kohden Oscilloscope Camera—Model PC-3A. Manufacturer: Nihon Kohden Dogyo Co., Ltd., Japan. Intended use of article: The article is intended to be used for studies of bioelectric potential changes from excitable tissues. Membrane potential and membrane current are recorded from nerve and muscle tissues displayed on an oscilloscope, and photographed on film. Membrane electrical properties including ionic conductances are then measured from the recorded film.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides continuous recording in a fully lighted room with simultaneous viewing and photography. The Department of Health, Education, and Welfare advises in its memorandum, dated January 5, 1978, that: (1) The combination of features of the article described above are pertinent to the applicant's intended purposes, and (2) it knows of no domestic instrument or apparatus which has the combination of pertinent features provided by the article.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director,
Statutory Import Programs Staff.

[FR Doc. 78-4374 Filed 2-16-78; 8:45 am]

[3510-25]

UNIVERSITY OF CALIFORNIA, LOS ALAMOS

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5 p.m. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 77-00178. Applicant: University of California—Los Alamos Scientific Laboratory, P.O. Box 990, Los Alamos, N. Mex. 87545. Article: Modelocked Dye Laser System, Model 33 and accessories. Manufacturer: Electro-Photonics, Inc., Ireland. Intended use of article: The article is intended to be used as part of a laser fusion research project to irradiate cryogenic targets resulting in a nuclear fusion project. Typical targets would include various hydrocarbons and materials such as carbon dideuterium. Investigations will be conducted on the absorption and reflection of high power 10.6 micron targets as well as thresholds for fusion. These successful research projects involve the investigation of radiation damages. Other related laser projects investigate the feasibility of controlled thermonuclear fusion, and will lead to the development of fusion reactors for the production of cheap electical energy. One of the parameters in these experiments is the effect of different pulse lengths in time of the laser irradiation.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides a variable pulse length between 35 and 100 pico-seconds. The National Bureau of Standards advises in its memorandum, dated January 3, 1978, that: (1) The specification of the article described above is pertinent to the applicant's intended use, and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended purpose.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Statutory
Import Programs Staff.

[FR Doc. 78-4375 Filed 2-16-78; 8:45 am]

[3510-25]

UNIVERSITY OF CALIFORNIA—LOS ALAMOS

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article purcuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5 p.m. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 77-00340. Applicant: University of California, Los Alamos Scientific Laboratory, P.O. Box 990, Los Alamos, N. Mex. 87545. Article: 2 (each) Image Converter Camera systems, and accessories. Manufacturer: Hadland Photonics Ltd., United Kingdom. Intended use of article: The article is intended to be used to photograph the motion of the high-temperature plasma column in the Scylla IV-P theta-pinch device which is part of the U.S. program to produce energy for peaceful purposes through controlled nuclear fusion. Specific experiments to be conducted include the following:

(a) Studies of the phenomena involved in the plasma heating processes

(shock, heating, and adiabatic compression heating).

(b) Studies of the plasma end-loss phenomena and various methods of reducing both particle end-loss and the heat loss by axial thermal conduction.

(c) Determination of the detailed plasma properties such as temperature, density, and confinement time.

(d) Study of the nuclear fusion reactions which occur in the hot plasma.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides either streak or framing mode operation with at least a framing rate of 10^6 per second and up to 20 frames per run. The National Bureau of Standards advises in its memorandum dated January 20, 1978 that (1) the capability of the article described above is pertinent to the applicant's intended use and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended purposes.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Statutory Import Programs Staff.

[FR Doc. 78-4376 Filed 12-16-78; 8:45 am]

[3510-25]

UNIVERSITY OF HAWAII

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5 p.m. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 77-00367. Applicant: University of Hawaii, High Energy Physics Group, Watanabe Hall, 2505 Correa Road, Honolulu, Hawaii 96822. Article: Model 1 Sweepnik Optics Unit and Model 1 Sweepnik Electronics Rack and Accessories. Manufacturer: Laser-Scan Ltd., United Kingdom. Intended use of article: The article is intended to be used for bubble chamber experiments which involve bombarding the 15' bubble chamber with multi-billion volt neutrinos produced by the highest energy accelerator in the world. The purposes of these experiments are to discover new particles, examine the properties of a class of particles called "quarks", and to understand a new and strange property possessed by certain elementary particles whimsically called "charm". Specifically, the article will be used to measure the trajectories of charged particles produced by neutrinos in the bubble chamber to an accuracy fo 2 millionths of a meter on the 70 mm film.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article is a laser-type computer controlled, semi-automatic measuring instrument capable of measuring with great precision the trajectories of charged particles, produced by neutrinos in a bubble chamber to an accuracy of two millionths of a meter on 70 mm film. The National Bureau of Standards advises in its memorandum dated January 26, 1978 that (1) the capability of the article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Statutory Import Programs Staff.

[FR Doc. 78-4377 Filed 2-16-78; 8:45 am]

[3510-25]

UNIVERSITY OF LOUISVILLE

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5 p.m. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 78-00023. Applicant: University of Louisville, 2301 South Third Street, Louisville, Ky. 40208. Article: Complete Bat Detector Kit. Manufacturer: OMC Instruments, Ltd., United Kingdom. Intended use of article: The article is intended to be used for the identification and investigation of Ultrasonic sound emissions of bats. In addition, the article will be used to train graduate students in the course "Methods in Anatomy".

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides operation in the timed and broadband mode (frequency range 10 to 180 kilohertz) as well as portability. The Department of Health, Education, and Welfare advises in its memorandum dated January 5, 1978 that (1) the capabilities of the article described above is pertinent to the applicant's intended use and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended purpose.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Statutory Import Programs Staff.

[FR Doc. 78-4378 Filed 2-16-78; 8:45 am]

[3510-25]

UNIVERSITY OF MINNESOTA—ST. PAUL

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and

the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5 p.m. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 78-00028. Applicant: University of Minnesota, Minnesota Agricultural Experiment Station, 220 Coffey Hall, St. Paul, Minn. 55108. Article: Scanning Electron Microscope, Model PSEM-500 and accessories. Manufacturer: Philips Electronics Instruments NVD, The Netherlands. Intended use of article: The article is intended to be used for research in many areas of agricultural science, particularly in research connected with Agronomy and Plant Breeding, Food Science, Entomology, Plant Pathology, and Soil Science. Planned projects will include the following: (1) plant breeding projects concerning the inheritance of minute internal plant structures, (2) research projects concerning normal vs. pathogen-induced changes in apical shoot meristems of economically important annual plants, primarily angiosperms, and (3) the study of various aspects of spore ontog-eny (formation) and refill capacity in minute fungal structures such as the globose-shaped pycnidia (fruiting structure) of fungi in the order Sphaeropsidales.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides a motor driven fully eccentric goniometer stage with movements accurate to one micron and reproducible to 0.2 micron. The Department of Health, Education, and Welfare advises in its memorandum dated January 5, 1978 that (1) the capabilities of the article described above is pertinent to the applicant's intended use and (2) it knows of no domestic instrument that provides the pertinent feature of the article.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Statutory Import Programs Staff.

[FR Doc. 78-4379 Filed 2-16-78; 8:45 am]

[3510-25]

UNIVERSITY OF VERMONT

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5 p.m., in Room 6886C of the Department of Commerce Building, 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 78-00037. Applicant: The University of Vermont, 223 Waterman Building, Burlington, Vt. 05401. Article: Isolated Kidney Perfusion Cabinet and Accessories. Manufacturer: Radcliffe Infirmary, United Kingdom. Intended use of article: The article is intended to be used in the perfusion of isolated rat kidneys in the study of the regulation of potassium and acid excretion by the kidney.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article is a specially designed handcrafted system incorporating a technique developed through the long term research efforts of the foreign manufacturers. It consists of an enclosed rectangular cabinet containing a specially designed glass oxygenator, a two part glass chamber for mounting the perfused kidney, and special glass cannulae for renal arterial cannulation, as well as, internal connections for a fan heater, temperature controller for 37 degrees centigrade, gas entry site, and an electrical pump outlet. The Department of Health, Education, and Welfare advises in its memorandum dated January 5, 1978, that (1) the capability of the article described above is pertinent to the applicant's intended research, and (2) it knows of no domestic instrument or apparatus that provides the pertinent features.

The Department of Commerce knows of no other instrument of apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Statutory Import Programs Staff.

[FR Doc. 78-4380 Filed 2-16-78; 8:45 am]

[3510-25]

UNIVERSITY OF WISCONSIN

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5 p.m., in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 77-00396. Applicant: University of Wisconsin—Department of Electrical and Computer Engineering, 1425 Johnson Drive, Madison, Wis. 53706. Article: Variable-Temperature Cryostat. Manufacturer: Karlsruher Glastechnisches Werk, West Germany. Intended use of article: The article is intended to be used for studies of the electrical and photo-electric properties of single-crystal semiconductor materials including but not restricted to GeS, GeSe, SnS, and SnSe in order to understand the electronic properties, energy band structure and impurity states of these materials. In addition, the article will be used for education purposes in the course Electrical and Computer Engineering 305—Laboratory in Semiconductor measurements.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides rapid or instantaneous cooldown (100°c/minute) to 77 degrees kelvin. The National Bureau of Standards advises in its memorandum dated January 23, 1978, that (1) the feature of the article described above is pertinent to the applicant's intended purposes, and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or appa-

ratus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director,
Statutory Import Programs Staff.

[FR Doc. 78-4381 Filed 2-16-78; 8:45 am]

[3510-25]

UNIVERSITY OF ILLINOIS, ET AL.

Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Statutory Import Programs Staff, Bureau of Trade Regulation, U.S. Department of Commerce, Washington, D.C. 20230, on or before March 11, 1978.

Regulations (15 CFR 301.9) issued under the cited Act prescribe the requirements for comments.

A copy of each application is on file, and may be examined between 8:30 a.m. and 5 p.m., Monday through Friday, in Room 6886C of the Department of Commerce Building, 14th and Constitution Avenue NW. Washington, D.C. 20230.

Docket No. 78-00118. Applicant: The University of Illinois at the Medical Center, Chicago, College of Nursing, Department of General Nursing, Room 538, 845 South Damen Avenue, Chicago, Ill. 60612. Article: LKB 2128-010 Ultrotome IV Ultramicrotome with accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for studies of: plant cells (e.g., bacteria such as escherichia coli and diplococcus pneumonia) and fungal specimens; normal and pathological cells and tissues of animal origin (e.g. from rats, mice, hamsters, rabbits and monkeys) and of human origin. The experiments being conducted include investigation of the morphological and cytochemical characteristics of 35 and 90—120 day-old malnourished, neonatally cretinized and control rats. Types of synapses will be analyzed on the basis of symmetry or asymmetry, cleft width, vesicle form and whether axosomatic or axodendritic. The appearance of mitochondria in axon terminals will be studied and any anomalous structures noted. The article will also be used for graduate studies in ultrastructure and cytochemistry which involve learning the general principles of ultramicrotomy for electron microscopy and microtomy for light microscopy. Application received by Commissioner of Customs: January 30, 1978.

Docket No. 78-00119. Applicant: Massachusetts Institute of Technology, 77 Massachusetts Avenue, Cambridge, Mass. 02139. Article: Optoelectronic Movement Monitoring System. Manufacturer: Selective Electronic Co., Sweden. Intended use of article: The article is intended to be used to investigate the trajectories of the arm and consequently to advance the understanding of the way in which the central nervous system controls the large numbers of degrees of freedom of the human multi-joint apparatus. Application received by Commissioner of Customs: January 30, 1978.

Docket No. 78-00121. Applicant: Sandia Laboratories, 1515 Eubank Boulevard SE., Albuquerque, N. Mex. 87115. Article: Cinetheodolite System, Model F and accessories. Manufacturer: Contraves-Goerz, Switzerland. Intended use of article: The article is intended to be used for studies of the aerodynamic characteristics of Weapon System Flight Vehicles. The specific phenomena being investigated include accelerations, velocities, and space position versus time. Experiments will be conducted to confirm characteristics obtained from model studies and to determine interface characteristics between vehicles and delivery system. The effects of component retrofits on existing systems will also be investigated. Application received by Commissioner of Customs: January 31, 1978.

Docket No. 78-00123. Applicant: University of TX Health Science Center at Houston, Department of Neurobiology and Anatomy, 6431 Fannin, P.O. Box 20708, Houston, Tex. 77025. Article: Electron Microscope System, Standard Side Entry, Model JEM-100CX and accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used to study the structure of biological cells and tissues; primarily those of the nervous system including special sensory organs. The study of structure is related to neurochemical transmission, excitable membranes and ultra structural correlates of chemical interaction of nerve cells and related enzymatic activity. Similarly the equipment will be used to determine the ultrastructural substrate and basis for chemical activity of the nervous system during normal and/or abnormally related functional state. Experiments will vary considerably ranging from morphological studies of the retina to studying the autonomic nerve supply of the human pelvic viscera, the neurochemical correlates of nerve activity in the central nervous system and in the autonomic nervous system. The articles will also be used to teach graduate students on a tutorial basis the use of electron microscopy, from the standard primitive techniques for transmission electron microscopy and the emphasis is on the practical aspects of students preparing, examining and working on an experimental basis throughout the tutorial. In addition, several medical students will be trained in the use of the standardized electron microscopy. Application received by Commissioner of Customs: January 31, 1978.

Docket No. 78-00124. Applicant: National Bureau of Standards, Chemistry B-124, Washington, D.C. 20234. Article: Mass Spectrometer, Model MAT 711 PR and Accessories. Manufacturer: Varian MAT, West Germany. Intended use of article: The article is intended to be used in a wide program of environmental and clinical trace organic analysis, e.g., (1) the identification by elemental composition and structure of individual chemical compounds present in coal liquefaction products by high resolution gas chromatography/high resolution mass spectrometry, (2) the detection and identification of homologous impurities in samples of the peptide angiotensin and related peptides by field desorption mass spectrometry using photoplate recording for the detection of low-level impurities, and (3) quantitation of certain drugs and natural constituents in human plasma by gas chromatography/mass spectrometry using isotope dilution and selected ion monitoring at high resolution to eliminate interferences from other plasma constituents which preclude use of similar methodology at low resolution. Application received by Commissioner of Customs: January 31, 1978.

Docket No. 78-00126. Applicant: University of Alabama in Birmingham, University Station, Birmingham, Ala. 35294. Article: Electron Microscope, Model EM 10A and accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used for varied research ranging from high resolution studies of virus coat proteins and extracellular polymers of floc forming bacteria to low magnification survey photographs as extensions of the light microscopy. Specific projects include the following:

(1) Research on the crystalline matrix protein of a nuclear polyhedrosis virus of *Autographa californica.*

(2) Study of the process of microbial floc formation.

(3) Study of the development of the male reproductive tract as it relates to the production of epididymal and

seminal vesicle inhibitors of acrosomal enzymes.

(4) Study of the secretory tissues of the flowering plant, *Gossypium hirsutum*. In addition, the article will be used in the courses: Experimental Embryology Laboratory to introduce students to modern research techniques and Investigative Techniques to teach graduate students a specific technique in depth. Application received by Commissioner of Customs: February 1, 1978.

Docket No. 78-00127. Applicant: Georgetown University Medical School, Department of Pathology, 3900 Reservoir Road NW., Washington, D.C. 20007. Article: Microlab automatic tissue processor. Manufacturer: Microlab Products, Canada. Intended use of article: The article is intended to be used for processing of surgical and autopsy specimens. Application received by Commissioner of Customs: February 3, 1978.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Statutory Import Programs Staff.

[FR Doc. 78-4382 Filed 2-16-78; 8:45 am]

[3510-25]

UNIVERSITY OF CALIFORNIA—LOS ALAMOS AND YALE UNIVERSITY

Consolidated Decision on Applications for Duty-Free Entry of Laser Systems

The following is a consilidated decision on applications for duty-free entry of laser systems pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301). (See especially section 301.11(e).)

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review between 8:30 a.m. and 5 p.m. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 77-00161. Applicant: University of California—Los Alamos Scientific Laboratory, P.O. Box 990, Los Alamos, N. Mex. 87545. Article: (2) Two Lasers, TEA, CO_2, Model 103-2 and accessories. Manuracturer: Lumonics Research, Ltd., Canada. Intended use of article: The articles will be used for laser-induced separation of uranium isotopes. Specifically, one laser is to be used to optically pump gas samples to investigate the scalable potential of such a 15.9 micron system. The new molecular systems to be investigated include CF_4, SO_2, CP_3, and FCN. The other leaser will be used to produce a tunable wavelength in the 16 micron region by mixing the CO_2 frequency in a nonlinear crystal. The ultimate goal of the investigations is to demonstrate the scientific and economic feasibility of the separation of uranium isotopes by laser methods. Application received by Commissioner of Customs: March 17, 1977. Advice submitted by the National Bureau of Standards on December 30, 1977. Article ordered February 1, 1977.

Docket No. 77-00286. Applicant: Yale University, 10½ Hillhouse Avenue, New Haven Conn. 06520. Article: Laser, Model TEA-103-2, Multimode Front Optic, Model 505FCo_2 and Reflector, Model 503. Manufacturer: Lumonics Research, Ltd., Canada. Intended use of article: The article is intended to be used to create energetic plasma, and to initiate capacitor discharge in plasma physics research. The materials to be investigated will include solid laser targets; carbon, lithium, etc. The article will also be used to teach operation and use of laser in plasma research. Application received by Commissioner of Customs: June 27, 1977. Advice submitted by the National Bureau of Standards on January 5, 1978. Article ordered May 20, 1977.

Comments: No comments have been received in regard to any of the foregoing applications.

Decision: Applications approved. No instrument or apparatus of equivalent scientific value to the foreign articles, for the purposes for which the articles are intended to be used, was being manufactured in the United States at the time the articles were ordered.

Reasons: Each foreign article provides a high power level (15 joules at 10.6 microns). The National Bureau of Standards advises in the cited memoranda that: (1) The capability described above is pertinent to the purposes for which each of the articles is intended to be used, and (2) it knows of no domestic instrument or apparatus which is scientifically equivalent to any of the foreign articles to which the foregoing applications relate for such purposes as these articles are intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to any of the foreign articles to which the foregoing applications relate, for such purposes as these articles are intended to be used, which was being manufactured in the United States at the time the articles were ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Statutory Import Programs Staff.

[FR Doc. 78-4383 Filed 2-16-78; 8:45 am]

[3510-18]

Office of the Secretary

COMMERCE TECHNICAL ADVISORY BOARD

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. I (Supp. V, 1975), notice is hereby given that the Commerce Technical Advisory Board (CTAB) will hold a meeting on Tuesday, March 21, 1978, from 9 a.m. until 5 p.m., and on Wednesday, March 22, 1978, from 9:30 a.m. until 12 o'clock noon, in Room 6802, Department of Commerce, 14th and Constitution Avenue NW., Washington, D.C.

The Board was established to and evaluate the technical activities of the Department of Commerce and recommend measures to increase their value to the business community. Tentative agenda items include:

1. The Role of CTAB in the Cooperative Technology Program.
2. Presentation by the Maritime Administration.
3. Strategy for the Formation of CTAB Panels and Preliminary Selection of Panel Topics.
4. Transnational Data Flows.

The meeting will be open to public observation. The public may submit written statements or inquiries to the Chairman before or after the meeting. A limited number of seats will be available to the public and to the press on a first-come, first-served basis.

Copies of minutes and materials distributed will be made available for reproduction, following certification by the Chairman, in accordance with the Federal Advisory Committee Act, at the U.S. Department of Commerce, Central Reference and Inspection Facility, Washington, D.C. 20230.

Further information may be obtained from Mrs. Florence S. Feinberg, Administrator, Room 3865, U.S. Department of Commerce, Washington, D.C. 20230, telephone 202-377-5065.

Dated: February 10, 1978.

JORDAN J. BARUCH,
Assistant Secretary for Science and Technology.

[FR Doc 78-4369 Filed 2-16-78; 8:45 am]

[3510-11]

Travel Service

TRAVEL ADVISORY BOARD

Meeting

As noted in the FEDERAL REGISTER dated February 3, 1978, on Page 4670, a meeting will be held on March 3, 1978, at 10 a.m., in Room 4830, of the Main Commerce Building, 14th Street and Constitution Avenue NW., Washington, D.C. 20230.

Established in July 1968, the Travel Advisory Board consists of senior rep-

resentatives 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 purposes of the International Travel Act of 1961, as amended (16 U.S.C.2121), and the Act of July 19, 1940, as amended (16 U.S.C. 18-18d, et seq.).

Agenda items are as follows:

1. Introduction by the Assistant Secretary for Tourism
2. New Directions of USTS
3. 1979 USTS Budget
4. Role of the Travel Advisory Board
5. Domestic Program
6. International Program
7. Status of Expositions
8. Miscellaneous
9. Adjournment

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 will be allowed.

Sue Barbour, Travel Advisory Board Liaison Officer of 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.

[FR Doc. 78-4481 Filed 2-16-78; 8:45 am]

[6820-33]

COMMITTEE FOR PURCHASE FROM BLIND AND OTHER SEVERELY HANDICAPPED

PROCUREMENT LIST 1978

Proposed Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed Additions to Procurement List.

SUMMARY: The Committee has received proposals to add to Procurement List 1978 commodities to be produced by and a service to be provided by workshops for the blind and other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: March 21, 1978.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Va. 22201.

FOR FURTHER INFORMATION CONTACT:

C. W. Fletcher, 703-557-1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77.

If the Committee approves the proposed additions, all entities of the Federal Government will be required to procure the commodities and service listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodities and service to Procurement List 1978, November 14, 1977 (42 FR 59015):

Class 6532

Gown, Hospital (Isolation), 6532-01-045-5380, 6532-01-045-5381.

SIC 7399

Shrink Wrapping, Gift Packages, U.S. Postal Service, Items No. 825, 826, and 827, Washington, D.C.

C. W. FLETCHER,
Executive Director.

[FR Doc. 78-4417 Filed 2-16-78; 8:45 am]

[6820-33]

PROCUREMENT LIST 1978

Proposed Deletion

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed Deletion from Procurement List.

SUMMARY: The Committee has received a proposal to delete from Procurement List 1978 a service provided by workshops for the blind or other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: March 21, 1978.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Va. 22201.

FOR FURTHER INFORMATION CONTACT:

C. W. Fletcher, 703-557-1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77.

It is proposed to delete the following service from Procurement List 1978, November 14, 1977 (42 FR 59015):

SIC 7641

Furniture Rehabilitation (Wood Only), All Federal Agencies, Cleveland, Ohio, plus 25-mile radius.

C. W. FLETCHER,
Executive Director.

[FR Doc. 78-4418 Filed 2-16-78; 8:45 am]

[1620-01]

COST ACCOUNTING STANDARDS BOARD

Meeting

ACTION: Notice of public meeting.

SUMMARY: This notice is issued in furtherance of the decision of the Cost Accounting Standards Board to invite the public to observe meetings at which the Board considers the merits of Standards, rules and regulations, including modifications, which are proposed for final promulgation.

TIME AND DATE: 10 a.m., March 3, 1978.

PLACE: General Accounting Office, Room 7315, 441 G Street NW., Washington, D.C.

AGENDA: The Board will consider a proposal to promulgate amendments to its regulations defining "cost accounting practice" and "change in cost accounting practice" and adopting miscellaneous related amendments.

STATUS: Open to the public.

CONTACT PERSON:

Noah Minkin, General Counsel, 202-275-5940.

J. JETT MCCORMICK,
Associate General Counsel.

[FR Doc. 78-7604 Filed 2-16-78; 10:52 am]

[6355-01]

CONSUMER PRODUCT SAFETY COMMISSION

PRODUCT SAFETY ADVISORY COUNCIL

Meeting

AGENCY: Consumer Product Safety Commission (CPSC).

ACTION: Notice of meeting—Product Safety Advisory Council.

SUMMARY: This notice announces that the Product Safety Advisory Council will meet on Monday-Tuesday, March 13-14, 1978, in connection with the Commission's midyear review process. The mid-year review will begin at 9 on both days and will be held in the third floor conference room, 1111 18th Street NW., Washington, D.C.

SUPPLEMENTARY INFORMATION: The Advisory Council was established by section 28 of the Consumer Product Safety Act (CPSA), which provides that the Commission may consult with the Council before prescribing a consumer product safety rule or taking other action under the Act.

CONTACT PERSON FOR ADDITIONAL INFORMATION:

Dee Wilson, Committee Management Officer, Office of the Secre-

tary, Suite 300, 1111 18th Street NW., Washington, D.C. 202-634-7700.

AGENDA: CPSC midyear review. This review is intended to apprise the Commissioners of the status of activities and projects in the fiscal year 1978 work plan, to recommend changes where appropriate, to suggest possible future initiatives, and to seek guidance from the Commissioners for current and future activities. The meeting is open to the public; however, space is limited.

Dated: February 13, 1978.

SHELDON D. BUTTS,
Acting Secretary.

[FR Doc. 78-4399 Filed 2-16-78; 8:45 am]

[3128-01]

DEPARTMENT OF ENERGY

Energy Information Administration

SURVEY OF OIL AND GAS WELL OPERATORS TO OBTAIN ESTIMATES OF U.S. CRUDE OIL AND NATURAL GAS RESERVES, PRODUCTION AND RELATED DATA

Request for Public Comment

AGENCY: Department of Energy, Energy Information Administration.

ACTION: Notice of Request for Public Comment on Form EIA-23.

SUMMARY: The Energy Information Administration (EIA) of the Department of Energy (DOE) plans to survey operators of oil and gas wells annually to develop credible and verifiable estimates of crude oil and natural gas reserves, obtain timely production information, to provide a vehicle for the regular reporting of reserves ownership data, and to identify nonproducing reserves. Form EIA-23 has been designed to obtain crude oil and natural gas reserves data needed on a continuing basis by the Department of Energy. In addition, Form EIA-23 supersedes proposed Form FEA-340-A-0, and is intended to replace Federal Power Commission Form No. 40 presently submitted by "Natural Gas Companies" (as defined by the Natural Gas Act). Potential respondents, interested parties, and members of the public are invited to submit comments on the proposed Form EIA-23, a copy of which is reproduced herein.

EFFECTIVE DATE: Comments received no later than March 10, 1978, will be given full consideration.

FOR FURTHER INFORMATION CONTACT:

William L. Monroe, Department of Energy, 825 North Capitol Street, Room 7312A, Washington, D.C. 20426, 202-275-4357.

Written comments should be submitted in duplicate to:

Gordon K. Zareski, Department of Energy, 825 North Capitol Street, Room 7312, Washington, D.C. 20426.

SUPPLEMENTARY INFORMATION:

I. Legislative Authority for Information to be Collected on Form EIA-23.
II. Objectives of Annual Surveys to be Conducted using Form EIA-23.
III. Background.
IV. Implementation Program.
V. Comments Invited, Particularly on Certain Issues.

I. LEGISLATIVE AUTHORITY FOR INFORMATION TO BE COLLECTED ON FORM EIA-23

Legislative authority for collecting information on production, reserves, and ownership of crude oil and natural gas in the United States and its Outer Continental Shelf is summarized below. The information so acquired is a necessary prerequisite for the Secretary of Energy to carry out his functions under various provisions of law.

The Department of Energy Organization Act (Pub. L. 95-91) transferred the responsibilities of the Federal Energy Administration and its Administrator to the Secretary. Among these responsibilities were the requirements imposed by Pub. L. 93-275, as amended by Pub. L. 94-385, to "* * * assess the adequacy of energy resources * * *." (Section 5(b)(2)); "* * * collect, evaluate, assemble, and analyze energy information * * *." (Section 5(b)(9)); "* * * at the earliest date and to the maximum extent practical * * *" to obtain "* * * such energy information as is required to define and permit analysis of (1) the institutional structure of the energy supply system including patterns of ownership and control of mineral fuel and nonmineral energy resources and the production, distribution, and marketing of mineral fuels * * *." (Section 52(b)); and "All persons owning or operating facilities or business premises who are engaged in any phase of energy supply or major energy consumption shall make available to the Administrator such information and periodic reports, records, documents, and other data, relating to the purposes of the Act, including full identification of all data and projections as to source, time, and methodology of development, as the Administrator may prescribe by regulation or order as necessary or appropriate for the proper exercise of functions under this Act.", (section 13(b)). Pub. L. 93-319, section 11(a) instructs the Federal Energy Administrator to "* * * request, acquire, and collect such information as he determines to be necessary to assist in the formulation of energy policy or to carry out the purposes of this Act or the Emergency Petroleum Allocation Act of 1973."

Moreover, Section 301 of the Department of Energy Organization Act transferred to the Secretary certain explicit functions and responsibilities of the former Federal Power Commission, including the exercise of authorities not specifically so transferred, when necessary to exercise the functions specifically transferred. As a result, the Secretary is authorized by the Natural Gas Act to require "* * * such annual and other periodic or special reports as the Commission may by rules and regulations or order prescribe as necessary or appropriate * * *", (section 10(a)); and he "may investigate any facts, conditions, practices, or matters which it may find necessary or proper in order to determine whether any person has violated or is about to violate any provision of this act or any rule, regulation, or order thereunder, or to aid in the enforcement of the provisions or in obtaining information to serve as a basis for recommending further legislation to the Congress.", (section 14(a)); and he "shall have power to perform any and all acts, and to prescribe, issue, make, amend, and rescind such orders, rules and regulations as necessary or appropriate to carry out the provisions of the act * * *", (section 16).

II. OBJECTIVES OF ANNUAL SURVEYS TO BE CONDUCTED USING FORM EIA-23

The objectives of the annual surveys are to: (1) Develop credible estimates of proved reserves of crude oil and natural gas in the United States; (2) obtain reliable, timely data on production of crude oil and natural gas; (3) establish ownership information on oil and gas reserves; and (4) identify the estimated volumes of nonproducing reserves. The information collected will establish the data base needed to develop reliable production profiles for crude oil and natural gas. Results of the surveys are to be published annually. These reports may eventually replace reports on United States reserves and production now published by industry associations and those published by other government agencies to the degree that this is practical.

It is also planned that selected portions of the information collected will be included in some of the reports mandated by law, for example, the Secretary's Annual Report (section 657(2), Pub. L. 95-91) and the quarterly report required by the Energy Supply and Environmental Coordination Act, Pub. L. 93-319, section 11(c)2.

The data on ownership of reserves will aid the Executive Branch, Congress, and Federal Agencies in appraising competition in the oil and gas industry. Similarly, information on nonproducing reserves will be useful in considering whether legislative or regulatory actions may be necessary to increase hydrocarbon supplies.

Finally, the data acquired will be used intensively by Department of

Energy analysts in assessing the United States' energy position.

III. Background

Notice of a public panel discission to consider alternative means of developing oil and gas reserves data was published June 14, 1977 (42 FR 30126). The public discussion was held on July 12, 1977, in Washington, D.C.

Comments received in the conference were weighed at all stages in developing proposed Form FEA-P340-A-0, which was designed to be sent to all oil and gas well operators. Pretest packages of the form were mailed August 26, 1977, to selected oil and gas companies, trade and consumer associations, and government agencies.

After the establishment of the Department of Energy on October 1, 1977, the proposed form was reevaluated in view of DOE's responsibilities under the Department of Energy Organization Act, and the comments received from the pretest. As a result, proposed Form FEA-340-A-0 was redesigned, shortened, simplified, and designated Form EIA-23.

IV. Implementation Program

The final, revised version of Form EIA-23 will be mailed later this year to all oil and gas well operators, who must submit Part I no later than 20 days after receipt. The remainder of the survey form, Part II, must be filed by August 14, 1978. In subsequent years it is planned to expedite schedules for mailing and filing.

The data received via Form EIA-23 will be recorded in computer data banks, checked for internal consistency, and summarized. Scientifically selected data samples will be audited by government and/or contractor teams of professionals.

Preliminary and final reports of the survey results will be published each year, commencing in 1978.

V. Comments Invited, Particularly on Certain Issues

The Department of Energy is cognizant both of the need for collecting this information to guide development of national energy policy, and of the burden that reporting the information may impose on the respondent. Every effort has been made to reduce this reporting burden. DOE, therefore, invites specific comments on the following issues:

1. ABBREVIATED RESPONSE BY SMALL OPERATORS

Operators of oil and/or gas wells with annual production of less than 200,000 barrels of crude oil and one (1) billion standard cubic feet of natural gas would only report production, and, if available, proved reserve estimates by State and by certain State subdivisions. It is estimated that over 90 percent of all oil and/or gas well operatord will be in this category.

Is this sufficient information to gather from small operators, or should more information be required?

2. INTERMEDIATE OPERATOR RESPONSE

Operators of oil and/or gas wells with annual production of 200,000 barrels of crude oil or more or one (1) billion standard cubic feet of natural gas or more but less than one (1) million barrels of crude oil and 10 billion standard cubic feet of natural gas would report oil and gas data by field, plus certain reserves ownership data on a State basis, along with the additional information shown in Part II, Schedules 1 and 2 of Form EIA-23. Judging from the 1975 FEA oil and gas reserves survey, it is estimated that somewhat less than 10 percent of all operators of oil and/or gas wells, accounting for about 10 percent of total domestic oil and gas production, will be in this category.

Is this a reasonable requirement or should more or less information be requested?

3. LARGE OPERATOR RESPONSE

Operators of oil and/or gas wells with annual production of one (1) million barrels of crude oil or more, or 10 billion standard cubic feet of gas or more, would report data by reservoir, plus certain reserves ownership data on a State basis, along with additional information shown in Part II, Schedules 1 and 3 of Form EIA-23. For the first two reporting years, reservoir detail would not be required for a great many oil reservoirs and some gas reservoirs as specified in the instructions to Schedule 3. From results of the 1975 FEA reserve survey, it is estimated that fewer than two percent of all oil and gas well operators, accounting for about 85 percent of total domestic oil and gas production, will be in this category.

Is this a reasonable requirement or should more or less information be requested?

4. ARE THE THREE PRODUCTION VOLUME CATEGORIES LISTED ABOVE REASONABLE OR SHOULD ANOTHER CLASSIFICATION BE USED?

5. BURDEN

Specific comment is desired concerning the burden anticipated to complete each schedule of the form. Comment should also include information as to whether there are data required by the form which are: (1) Either unavailable or which would require an extraordinary effort to gather; or (2) which could not reasonably be assembled and reported in the proposed time frame.

6. CONFIDENTIAL INFORMATION

Some of the information requested on the form may be considered by respondent operators to be confidential information, because its release to the public would be likely, in their view, to cause substantial competitive injury. Such information may be confidential information which is protected from disclosure to the public by 18 U.S.C. 1905*. In order to make a determination particular information is protected from disclosure by that statute, the person submitting the information must make a showing satisfactory to the DOE concerning its confidential nature.

Accordingly, if you believe that any information required to be submitted by you on the enclosed forms would be information protected from disclosure by 18 U.S.C. 1905, you must certify that the information has not previously been made publicly available and that, if made public the information would divulge methods or processes entitled to the protection by 18 U.S.C. 1905 as trade secrets or other proprietary information. You should state briefly and specifically, in a letter accompanying your submission of the forms, why the information concerned is a trade secret or other proprietary information, whether such information is customarily treated as confidential, the type of competitive harm that would result to your company from disclosure of the information, and an indication when such information might become nonconfidential due to the passage of time. The letter should be certified in the same manner as the form.

7. CLARITY OF INSTRUCTIONS AND DEFINITIONS

If certain instructions or definitions accompanying the form are ambiguous they should be identified and suggestions on how to clarify the obscurities submitted.

Issued at Washington, D.C., on February 13, 1978.

William S. Heffelfinger,
Director of Administration.

*18 U.S.C. 1905 prohibits officers and employees of the United States from disclosing in any manner not authorized by law information which concerns or relates to the trade secrets, processes, operations, style of work, or apparatus or to the identity, confidential statistical data, amount of source of any income, profits, losses, or expenditures of any person, firm, partnership, corporation, or association.

EIA 23
__/78
Supercedes
FERC 40
FEA

U.S. Department of Energy
Energy Information Administration
Form EIA 23

Form Approved
O.M.B. No.

This report is mandatory under Public Laws 93-275 and 93-319

PART I - RESPONDENT POPULATION UPDATE AND SUMMARY REPORT

A. This part must be completed and submitted to the address given on page 1 within 20 days of receipt. Type legibly or hand print in black ink.

1. Were you the operator (see definition on page 7) of one or more oil and/or gas wells as of December 31 of the report year (previous calender year)?

_____ Yes _____ No

* If no, fill out only Section B-item 2, and Section C below and return this page.
* If yes, and your production of crude oil during the report year from all properties which you operated during the report year was less than 200,000 barrels and your production of dry natural gas during the report year from all properties which you operated during the report year was less than 1 billion cubic feet, fill out all of Part I and return it.
* If yes, and your production during the report year equalled or exceeded either 200,000 barrels of crude oil or 1 billion cubic feet of dry natural gas from all properties which you operated during the report year, fill out Part 1 and return it. Then fill out the required portions of Part II, carefully following all definitions and instructions (see due date, p. 1).

B. 1. Date questionnaire received __/__/__ 2. Operator I.D. Code _____ (on mailing label)

2. OPERATOR IDENTIFICATION
a. Name _____
b. Street/Box/RFD _____ c. City _____
d. State _____ e. ZIP _____ f. Contact Person _____
g. Title _____ h. Telephone Number _____

3. PARENT COMPANY (IF ANY) IDENTIFICATION
a. Name _____
b. Street/Box/RFD _____ c. City _____
d. State _____ e. ZIP _____ f. Contact Person _____
g. Title _____ h. Telephone Number _____

C. I certify that the information provided herein and appended hereto is true and correct to the best of my knowledge and belief.

Name _____ Signature _____
Title _____ Date _____

Title 18 USC 1001 makes it a criminal offense for any person knowingly and willingly to make to any Agency or Department of the United States any false, fictitious or fraudulent statements as to any matter within its jurisdiction.

Form EIA-23
PART I (CONTINUED)

D. If you have determined, based on the cutoff limits described on the preceding page of Part I, that you need not file Part II, fill out the information requested in the table below for each state or state subdivision listed therein in which you had operations during the report year. Total production and reserves data for all states and state subdivisions thus reported should then be summed on line 51 "U.S.-TOTAL". Definitions of proved reserves and production of oil and natural gas appear on pages 7, 8, 3 and 6, respectively. Note that oil volumes are to be reported to the nearest thousand barrels and natural gas volumes, at 14.73 psia and 60 degrees Fahrenheit, are to be reported to the nearest million cubic feet.

If you have determined, based on the cutoff limits described on the preceding page of Part I, that you must file Part II, complete only line 51, "U.S.-TOTAL" of the table below, utilizing the definitional references and information on reporting units given in the above paragraph.

STATE OR STATE SUBDIVISION	REPORT YEAR OIL PRODUCTION (Mbbls)	OIL RESERVES 12/31 OF REPORT YEAR (Mbbls)	REPORT YEAR GAS PRODUCTION (MMcf)	GAS RESERVES 12/31 OF REPORT YEAR (MMcf)	STATE OR STATE SUBDIVISION	REPORT YEAR OIL PRODUCTION (Mbbls)	OIL RESERVES 12/31 OF REPORT YEAR (Mbbls)	REPORT YEAR GAS PRODUCTION (MMcf)	GAS RESERVES 12/31 OF REPORT YEAR (MMcf)
1. ALABAMA					26. NEW MEXICO-EAST				
2. ALASKA					27. NEW YORK				
3. ARIZONA					28. NORTH DAKOTA				
4. CALIFORNIA-COASTAL					29. OHIO				
5. CALIFORNIA-LOS ANGELES					30. PENNSYLVANIA				
6. CALIFORNIA-SAN JOAQUIN					31. SOUTH DAKOTA				
7. CALIFORNIA-FED. OFFSH.					32. TENNESSEE				
8. COLORADO					33. TEXAS RRCD 1				
9. FLORIDA					34. TEXAS RRCD 2				
10. ILLINOIS					35. TEXAS RRCD 3				
11. INDIANA					36. TEXAS RRCD 4				
12. IOWA					37. TEXAS RRCD 5				
13. KANSAS					38. TEXAS RRCD 6				
14. KENTUCKY					39. TEXAS RRCD 7-B				
15. LOUISIANA-NORTH					40. TEXAS RRCD 7-C				
16. LOUISIANA-SOUTH					41. TEXAS RRCD 8				
17. LOUISIANA-FED. OFFSH.					42. TEXAS RRCD 8-A				
18. MARYLAND					43. TEXAS RRCD 9				
19. MICHIGAN					44. TEXAS RRCD 10				
20. MINNESOTA					45. TEXAS-FED. OFFSH.				
21. MISSISSIPPI					46. UTAH				
22. MISSOURI					47. VIRGINIA				
23. NEBRASKA					48. WASHINGTON				
24. NEVADA					49. WEST VIRGINIA				
25. NEW MEXICO-WEST					50. WYOMING				
					51. U.S.-TOTAL				

U.S. DEPARTMENT OF ENERGY, ENERGY INFORMATION ADMINISTRATION, OIL AND GAS INFORMATION SYSTEM

Oil and Gas Operator's Annual Report of Proved Reserves and Related Data—Form EIA-23 Instructions

A. PURPOSE

Form EIA-23 is designed to provide to the Federal Government credible and verifiable data regarding the Nation's crude oil, natural gas and natural gas liquids proved reserves, production and closely related matters. This form was also developed to reduce duplication and overlap of the reserver-oriented energy information collection functions of several Federal agencies. Form EIA-23 supersedes FPC Form No. 40, form FEA P-301-S-O, and proposed form FEAP-340-A-0.

B. WHO MUST SUBMIT

Part I and Part II as appropriate, of form EIA-23 must be filed by all operators of crude oil and/or natural gas wells in the United States and its Outer Continental Shelf (see definition of Operator, P. 7).

C. WHERE AND WHEN TO SUBMIT

Part I of form EIA-23, must be completed and submitted to————— within twenty days of receipt of the forms package. Part II, if required, must be completed and submitted to the same address no later than August 14, 1978. In subsequent years, Part II must be submitted no later than April 1 of such year.

Questions regarding this form, its filing requirements and the instructions may be mailed to the address given above, or may be communicated by telephone to (202)————

D. WHAT MUST BE SUBMITTED

- All respondents must submit Part I.
- If your production from properties you operated as of December 31 of the report year equalled or exceeded either 200,000 barrels of crude oil or 1 billion cubic feet of dry natural gas (at 14.73 psia and 60 degrees Fahrenheit), or both, you must submit Part II, Cover Sheet and Schedule(s) 1, "Summary of Crude Oil, Dry Natural Gas, and Natural Gas Liquids Reserves and Related Data—By State and Subdivision".
- If you must submit Part II, Cover Sheet and Schedule(s) 1, and your production from properties you operated as of December 31 of the report year was less than 1 million barrels of crude oil and less than 10 billion cubic feet of dry natural gas (at 14.73 psia and 60 degrees Fahrenheit), you must also submit Part II, Schedule(s) 2, "Summary of Crude Oil and Natural Gas Reserves and Production Data—By Field".
- If you must submit Part II, Cover Sheet and Schedule(s) 1, and your gross production from properties you operated as of December 31 of the report year equalled or exceeded either 1 million barrels of crude oil or 10 billion cubic feet of dry natural gas (at 14.73 psia and 60 degrees Fahrenheit), you must submit Part II, Schedule(s) 3, "Crude Oil and Dry Natural Gas Reserves and Related Data—By Field and Reservoir".

Additional filing requirements for each schedule are given in the specific instructions for that schedule.

E. DEFINITIONS

Affiliated (Associated) Company.—A company or person that directly, or indirectly through one or more intermediaries, controls, is controlled by or is under common control with, the operator/respondent (see definition of Control p. 3).

Associated-Dissolved Gas.—Natural gas, commonly known as gas cap gas, overlying and in contact with crude oil in a reservoir, or natural gas which is in solution in crude oil within a reservoir, or a combination of both.

COMMITMENT CATEGORIES

a. *Interstate Natural Gas.*—proved natural gas reserves committed for sale, or for sale for resale, into interstate commerce.

b. *Intrastate Natural Gas.*—proved natural gas reserves committed for sale under intrastate contracts.

c. *Company Use.*—proved natural gas reserves committed for use as feedstock in respondent-owned plants or as fuel in respondent's operations.

d. *Other.*—proved natural gas reserves committed under any other arrangements than (a), (b), or (c) above.

Commitment Status of Proved Gas Reserves.—Committed proved gas reserves are those committed to a customer or other recipient under terms of a gas purchase contract, by advance payment agreements or some other contractual arrangements, or set aside for the respondent's own use.

Uncommitted proved gas reserves are those that have not been committed by the respondent, including those reserves under negotiation as of December 31 of the report year.

Interstate contracts are long term when they are not short term as defined in FERC Order Nos. 418, 431, 491A, 491B and 491C. Intrastate contracts are short term if they are for a period of one year or less.

Control.—(including the terms "controlling", "controlled by" and "under common control with") the possession, directly or indirectly, of the power to direct or cause the direction of the management and/or policies of a company, whether such power is exercised through one or more intermediary companies, or along, or in conjunction with, or pursuant to an agreement and whether such power is established through a majority ownership or voting of securities, common directors, officers, or stockholders, voting trusts, holding trusts, associated companies, contract or any other direct or indirect means.

Corrections.—Changes to proved reserves attributable to correction of prior arithmetic and/or clerical errors, and/or to adjustments of previously reported production volumes.

Crude Oil.—Crude oil technically is a mixture of hydrocarbons that exists in the liquid phase in natural underground reservoirs and that remains liquid at atomospheric pressure after passing through surface separating facilities. For statistical purposes, volumes reported as crude oil include:

1. Liquids technically defined as crude oil;
2. Small amounts of hydrocarbons that existed in the gaseous phase in natural underground reservoirs but are liquid at atmospheric pressure after being recovered from oil well (casinghead) gas in lease separators and that subsequently are commingled with the crude stream without being separately measured; and
3. Small amounts of nonhydrocarbons produced with the oil.

Crude oil porduction and reserves are reported as liquid equivalents at the surface (excluding basic sediment and water) measured in terms of thousands of stock tank barrels of 42 U.S. gallons at 14.73 pounds per square inch absolute and corrected to 60° F.

NOTE.—When a state regulatory agency specifies a definition of crude oil which differs from that set forth above, the state definition is to be followed and its use footnoted on Schedule 4.

Crude Oil Production.—Crude oil production is the volume of liquids, statistically reported as crude oil, which is produced from oil reservoirs during given periods of time. The amount of such production for a given year is generally established by measurement of volumes divered from lease storage tanks (i.e., the point of custody transfer) to pipelines, trucks, or other media for transport to refineries or terminals with adjustments for: (1) net difference between opening and closing lease inventories; and (2) basic sediment and water.

Cumulative Crude Oil Production.—The sum of the actual or estimated crude oil production during the report year and actual production for prior years.

Cumulative Natural Gas Production.—The sum of the actual or estimated natural gas production during the report year and actual production for prior years.

Depth to Mid-Point.—The average vertical distance in feet from ground level to the mid-point of a gas/oil reservoir; offshore, from the seabed to the mid-point of a gas/oil reservoir.

Dry Natural Gas.—The actual or calculated volumes of natural gas which

remain after: (1) The liquefiable hydrocarbon portion has been removed from the gas stream; and (2) any volumes of non-hydrocarbon gases have been removed where the latter occur in sufficient quantity to render the gas unmarketable.

Extensions.—The ultimate size of newly discovered fields, or newly discovered reservoirs in old fields, is normally determined by drilling in years subsequent to discovery. Wells drilled in subsequent years usually add to the proved areas of previously discovered reservoirs, thereby serving to increase estimates of proved reserves. The reserves credited to a reservoir because of enlargement of its proved area are classified as "extensions".

Feedstock.—Natural gas used as a raw material for its chemical properties in creating an end product.

Field.—An area consisting of a single reservoir or multiple reservoirs all grouped on, or related to, the same individual geological structural feature and/or stratigraphic condition. There may be two or more reservoirs in a field which are separated vertically by intervening impervious strata, or laterally by local geologic barriers, or by both.

Field Area.—A geographic area encompassing two or more pools (see definition of Pool) that have a common gathering and metering system, the reserves of which are reported as a single unit (applies generally to the Appalachian region).

Field Discovery Year.—The calendar year in which a field was first recognized as containing proved reserves.

Fuel Use.—All natural gas used by the respondent other than for feedstock.

Indicated Additional Reserves of Crude Oil.—With the present state of industry technology, certain quantities of crude oil (other than those defined and reported as proved reserves) may be economically recoverable from the following potential sources:

Known productive reservoirs in existing fields expected to respond to improved recovery techniques, such as fluid injection, where: (a) An improved recovery technique has been installed but its effect cannot yet be fully evaluated; or (b) an improved technique has not been installed but knowledge of reservoir characteristics and the results of a known technique installed in a similar situation are available for use in the estimating procedure.

Crude oil potentially available from these sources is reported as "indicated additional reserves". The economic recoverability of these reserves is not considered to be established with sufficient conclusiveness to allow them to be included in proved reserves; however, if and when improved recovery techniques are successfully applied to known reservoirs, the corresponding indicated additional reserves will be reclassified and added to the inventory of proved reserves. Indicated additional reserves do not include reserves associated with acreage that may be added to the area of a proved reservoir as the result of future drilling.

Initial Production, Year of.—The year in which initial production of crude oil or natural gas commenced.

Lease Condensate.—Natural gas liquids recovered from gas well gas (associated and nonassociated) in lease separators or field facilities. Lease condensate consists primarily of pentanes and heavier hydrocarbons.

Natural Gas.—A mixture of hydrocarbon compounds and small quantities of various non-hydrocarbons existing in the gaseous phase or in solution with crude oil in natural underground reservoirs at reservoir conditions. The principal hydrocarbons usually contained in the mixture are methane, ethane, propane, butanes and pentanes. Typical non-hydrocarbon gases which may be contained in reservoir natural gas are carbon dioxide, helium, hydrogen sulfide and nitrogen. Under reservoir conditions, natural gas and the liquefiable portions thereof occur either in a single gaseous phase in the reservoir or in solution with crude oil, and are not distinguishable at that time as separate substances. (See definitions of Nonassociated Natural Gas, p. 6, and Associated-Dissolved Gas, p. 2).

Natural Gas Liquids.—Natural gas liquids are those hydrocarbons in the reservoir natural gas which are separated from the natural gas as liquids either in the reservoir through the process of retrograde condensation or at the surface through the process of condensation, absorption or other methods in field separators, scrubbers, gas processing plants and cycling plants. Generally such liquids consist of propane and heavier hydrocarbons expressed in stock tank barrels and are commonly referred to as condensate, natural gasoline and liquefied petroleum gases. Where hydrocarbon components lighter than propane are recovered as liquids, these components are also included in the natural gas liquids reserves and production statistics. Natural gas liquids reserves are calculated by the use of a factor applied to the total volume of recoverable gas. Such a factor, usually expressed in stock tank barrels per million cubic feet of gas, is based on the recovery efficiency of installed or planned processing facilities. Such factors may be judged from laboratory gas analyses adjusted to surface processing facility efficiency or obtained from actual plant or separator production statistics. The calculation of proved recoverable reserves of natural gas liquids takes into consideration the effect of retrograde condensation in the reservoir where applicable.

If no information is available as regards plans for processing of gas known to contain liquefiable hydrocarbons, recoveries used in the calculation of reserves are based on separator yields or formation tests.

Natural Gas Production.—Gas production is net production which constitutes the total volume of natural gas withdrawn from producing reservoirs less the volume returned to such reservoirs in cycling, repressuring of oil reservoirs and conservation operations. Net production is corrected for shrinkage resulting from the removal of the liquefiable portions of the gas and excludes non-hydrocarbon gases where they occur in sufficient quantity to render the gas unmarketable. Volumes of gas withdrawn from gas storage reservoirs are not considered production since this gas has been previously reported as production when withdrawn from the original natural reservoirs or is native gas which has been transferred to the storage category.

Net Successful Nonassociated Gas Well Footage.—The total net footage (respondent's working interest) of successful gas well drilling completed during the report year related to nonassociated reserve additions. This footage is the distance from the surface to the point of deepest penetration measured along the well bore, or any portion of this distance drilled which results in reserve additions.

New Field.—An area of oil or gas occurrence, discovered during the report year, with accumulation controlled by a separate geological structural feature and/or stratigraphic condition to the extent that the new discovery is not considered a new reservoir, or an extension of an old reservoir, in a preexisting field.

New Field Discoveries.—New fields discovered during the report year.

New Reservoir.—A reservoir discovered during the report year.

New Reservoir(s) Discoveries in Old Fields.—New reservoir(s) discovered in pre-existing fields during the report year.

Nonassociated Natural Gas.—Natural gas not in contact with significant quantities of crude oil in a reservoir.

Nonproducing Reservoirs.—Reservoirs in which proved gas reserves have been identified, but which are inactive on December 31 of the report year regardless of the availability and/or operation of production, gathering or transportation facilities.

Operator.—The working interest owner, or his representative, who is responsible for the management and day-to-day operation of one or more oil and/or natural gas wells. This includes: (a) Wells that are producing or did produce oil and/or gas during the report year; and (b) wells that produced in previous years, or that have never produced, but which have

proved reserves of crude oil and/or natural gas as defined herein in the reservoirs associated with them as of December 31 of the report year.

Original Hydrocarbons In-Place.—The estimated volumes of crude oil and/or natural gas, regardless of the feasibility of recovery, contained in known reservoirs prior to any production. Note that under reservoir conditions, natural gas includes the liquefiable portion thereof (see definition of Natural Gas, p. 5).

Original Recoverable Hydrocarbons.—That portion of original hydrocarbons in-place estimated to be recoverable under existing economic and operating conditions.

Ownership.—Ownership of proved reserves is defined as either net working interest ownership or gross working interest ownership.

Net working interest ownership is the respondent's working interest exclusive of any royalty or overriding royalty interest related to the working interest.

Gross working interest ownership is the respondent's working interest plus the proportionate part of any royalty or overriding royalty interest related to the working interest.

Pool.—In general, the term "pool" is synonomous with the term "reservoir"; however, in certain situations a pool may consist of more than one reservoir (see definition of Field Area, p. 4).

Proved Reserves of Crude Oil.—Proved reserves of crude oil as of December 31 of the report year are the estimated quantities of all liquids statistically reported as crude oil, which geological and engineering data demonstrate with reasonable certainty to be recoverable in future years from known reservoirs under existing economic and operating conditions.

Reservoirs are considered: (1) Proved and tested if economic producibility is supported by either actual production or conclusive formation test (drill stem or wire line), or (2) proved and untested if economic producibility is supported by core analyses and/or electric or other log interpretations. The area of an oil reservoir considered proved includes: (1) That portion delineated by drilling and defined by gas-oil and/or oil-water contacts, if any; and (2) the immediately adjoining portions not yet drilled, but which can be reasonably judged as economically productive on the basis of available geological and engineering data. In the absence of information on fluid contacts, the lowest known structural occurrence of hydrocarbons controls the lower proved limit of the reservoir.

Reserves of crude oil which can be produced economically through application of improved recovery techniques (such as fluid injection) are included in the "proved" classification when successful testing by a pilot project, or the operation of an installed program in the reservoir, provides support for the engineering analysis on which the project or program was based.

Estimates of proved crude oil reserves do not include the following: (1) Oil that may become available from known reservoirs but is reported separately as "indicated additional reserves"; (2) natural gas liquids (including condensate); (3) oil, the recovery of which is subject to reasonable doubt because of uncertainty as to geology, reservoir characteristics, or economic factors; (4) oil that may occur in undrilled prospects; and (5) oil that may be recovered from oil shales, coal, gilsonite and other such sources.

Proved Reserves of Natural Gas and Natural Gas Liquids.—Proved reserves of natural gas and natural gas liquids as of December 31 of the report year are the estimated quantities which analysis of geologic and engineering data demonstrate with reasonable certainty to be recoverable in the future from known oil and gas reservoirs under existing economic and operating conditions.

Reservoirs are considered: (1) Proved and tested if economic producibility is supported by either actual production or conclusive formation test (drill stem or wire line), or (2) proved and untested if economic producibility is supported by core analyses and/or electric or other log interpretations. The area of a reservoir considered proved is that portion delineated by drilling and defined by gas-oil or gas-water contacts or limited by structural deformation or lenticularity of the reservoir. In the absence of fluid contacts, the lowest known structural occurrence of hydrocarbons controls the proved limits of the reservoir. The proved area of a reservoir may also include the adjoining portions not delineated by drilling but which can be evaluated as economically productive on the basis of geological and engineering data available at the time the estimate is made. Therefore, the reserves may be in either the drilled or the undrilled portions of the reservoir.

Volumes of natural gas in underground storage are not to be considered as proved reserves.

Where the quantity of non-hydrocarbons is sufficient to render unmarketable the natural gas contained in a particular reservoir, an appropriate reduction in the reservoir gas volume is made to cover the exclusion of such non-hydrocarbons.

It is not necessary that production, gathering or transportation facilities be installed or operative for a reservoir to be considered proved. It is assumed that compression will be initiated if and when economically justified.

Purchases and/or Sales of In-Place Reserves.—Proved crude oil, natural gas or natural gas liquids reserves within the reservoir (in place) purchased or sold, or otherwise transferred, by the respondent during the report year.

Remaining Recoverable Hydrocarbons.—Reserves of in-place hydrocarbons (crude oil and/or wet natural gas) which remain "proved" as of a given date. This quantity is the difference between the estimated volume of original recoverable hydrocarbons (oil or gas) and cumulative production of the hydrocarbons (oil or gas).

Report Year.—The calendar year preceding the year in which this report is filed.

Reserve Additions.—The algebraic sum of positive and negative corrections, positive and negative revisions, extensions, new reservoir discoveries in old fields and new field discoveries.

Reservoir.—A porous and permeable underground formation containing an individual and separate accumulation of producible hydrocarbons (oil and/or gas) which is confined by impermeable rock or water barriers and is characterized by a single natural pressure system. In most situations, reservoirs are classified as oil reservoirs or gas reservoirs by a regulatory agency. In the absence of regulatory authority, classification is based on natural occurrence of the hydrocarbons in a reservoir and classification and names as determined by the respondent.

Reservoir Discovery Year.—The year in which a reservoir was first recognized to contain proved reserves.

Revisions.—Both development drilling and production history add to the basic geological and engineering knowledge of a reservoir and provide the basis for more accurate estimates of proved reserves in years following discovery. Changes in earlier estimates, either upward or downward, resulting from new information (except for an increase in proved acreage) are classified as "revisions". Revisions for a given report year also include increases in proved reserves associated with the installation of improved recovery techniques.

Subdivision.—A prescribed portion of a given state.

Subsidiary Company.—A company which is controlled through the ownership of voting stock, or a corporate joint venture in which a corporation is owned by a small group of businesses as a separate and specific business or project for the mutual benefit of the members of the group (see definition of Control, p. 3).

Warranty Contracts.—Gas sales agreements wherein the seller warrants that an amount of gas will be available to meet the contracted commitments over the life of the contract.

Wet Natural Gas.—Natural gas as it exists within the reservoir. Calculated volumes of wet natural gas at 14.73

psia and 60° F. include the liquefiable portions of the reservoir gas (primarily ethane, propane, butanes and pentanes).

F. DATA REPORTING STANDARDS

1. Codes to be used in completion of form EIA-23

Wherever applicable, the following codes are those specified in Federal Information Processing Standards (FIPS). County codes, used in completion of Schedules 2 and 3, may be found in FIPS Publication 6-2, available from the Government Printing Office, or at most municipal and college libraries.

STATE ABBREVIATIONS

[Item 1.3 of Schedule 1, Items 2.1-2.37 (column c) of Schedule 2, and Item 2.3 of Schedule 3]

State	*Abbreviation*
Alabama	AL
Alaska	AK
Arizona	AZ
Arkansas	AR
California	CA
Colorado	CO
Connecticut	CT
Delaware	DE
District of Columbia	DC
Florida	FL
Georgia	GA
Hawaii	HI
Idaho	ID
Illinois	IL
Indiana	IN
Iowa	IA
Kansas	KS
Kentucky	KY
Louisiana	LA
Maine	ME
Maryland	MD
Massachusetts	MA
Michigan	MI
Minnesota	MN
Mississippi	MS
Missouri	MO
Montana	MT
Nebraska	NE
Nevada	NV
New Hampshire	NH
New Jersey	NJ
New Mexico	NM
New York	NY
North Carolina	NC
North Dakota	ND
Ohio	OH
Oklahoma	OK
Oregon	OR
Pennsylvania	PA
Rhode Island	RI
South Carolina	SC
South Dakota	SD
Tennessee	TN
Texas	TX
Utah	UT
Vermont	VT
Virginia	VA
Washington	WA
West Virginia	WV
Wisconsin	WI
Wyoming	WY

SUBDIVISION CODES

[Item 1.4 of Schedule 1, Items 2.1-2.37 (Column d) of Schedule 2, and Item 2.4 of Schedule 3]

Geographic subdivision (see following maps for boundaries)	*Code*
California:	
San Joaquin Valley (includes offshore-State)*	10

SUBDIVISION CODES—Continued

[Item 1.4 of Schedule 1, Items 2.1-2.37 (Column d) of Schedule 2, and Item 2.4 of Schedule 3]

Geographic subdivision (see following maps for boundaries)	*Code*
Coastal region (includes offshore-State)*	50
Los Angeles Basin (includes offshore-State)*	90
Offshore-Federal	00
Louisiana:	
North	50
South (includes offshore-State)*	10
Offshore-Federal	00
New Mexico:	
East	10
West	50
Texas:	
Railroad Commission District 1	10
Railroad Commission District 2 (includes offshore-State)*	20
Railroad Commission District 3 (includes offshore-State)*	30
Railroad Commission District 4 (includes offshore-State)*	40
Railroad Commission District 5	50
Railroad Commission District 6	60
Railroad Commission District 7B	70
Railroad Commission District 7C	75
Railroad Commission District 8	80
Railroad Commission District 8A	85
Railroad Commission District 9	90
Railroad Commission District 10	95
Offshore-Federal	00

*If you are not certain whether an offshore field lies in the Federal or the State domain, assume that it lies in the State domain and indicate locational uncertainty in a footnote on Schedule 4.

OFFSHORE ZONE CODES

[Items 2.1-2.37 (column e) of Schedule 2, and Item 2.5 of Schedule 3]

Code	Name	Description
990	Offshore-State	That area subject to State jurisdiction.
995	Offshore-Federal	That area subject to Federal jurisdiction.

[Item 1.4 of Schedule 1, Items 2.1-2.37 (Column d) of Schedule 2, and Item 2.4 of Schedule 3]

Geographic subdivision (see following maps for boundaries)

LITHOLOGY OF RESERVOIR CODES

[Item 3.?-6 of Schedule 3]

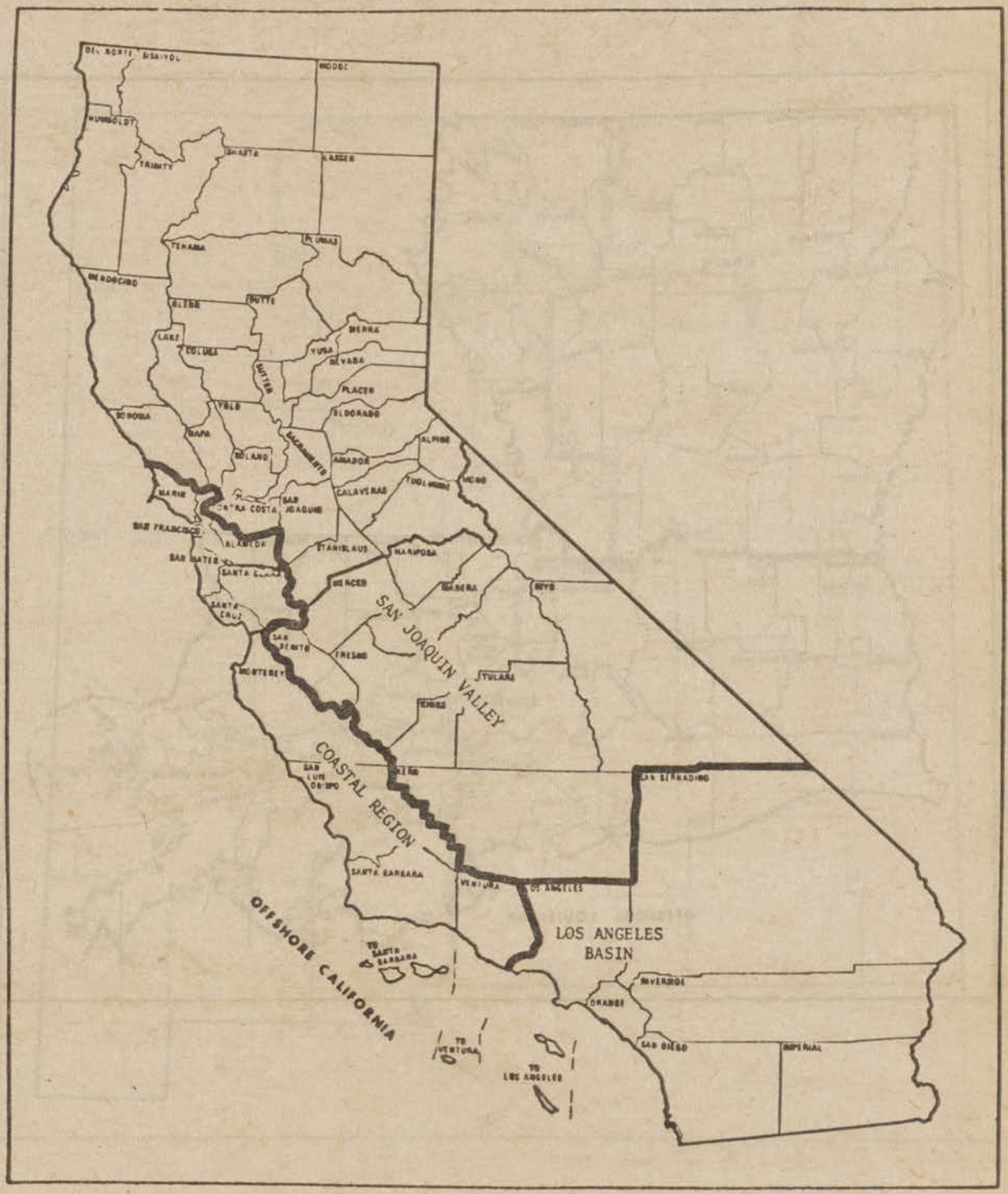
Lithology	Code
Sandstone	1
Carbonate	2
Other	3

TRAP TYPE CODES

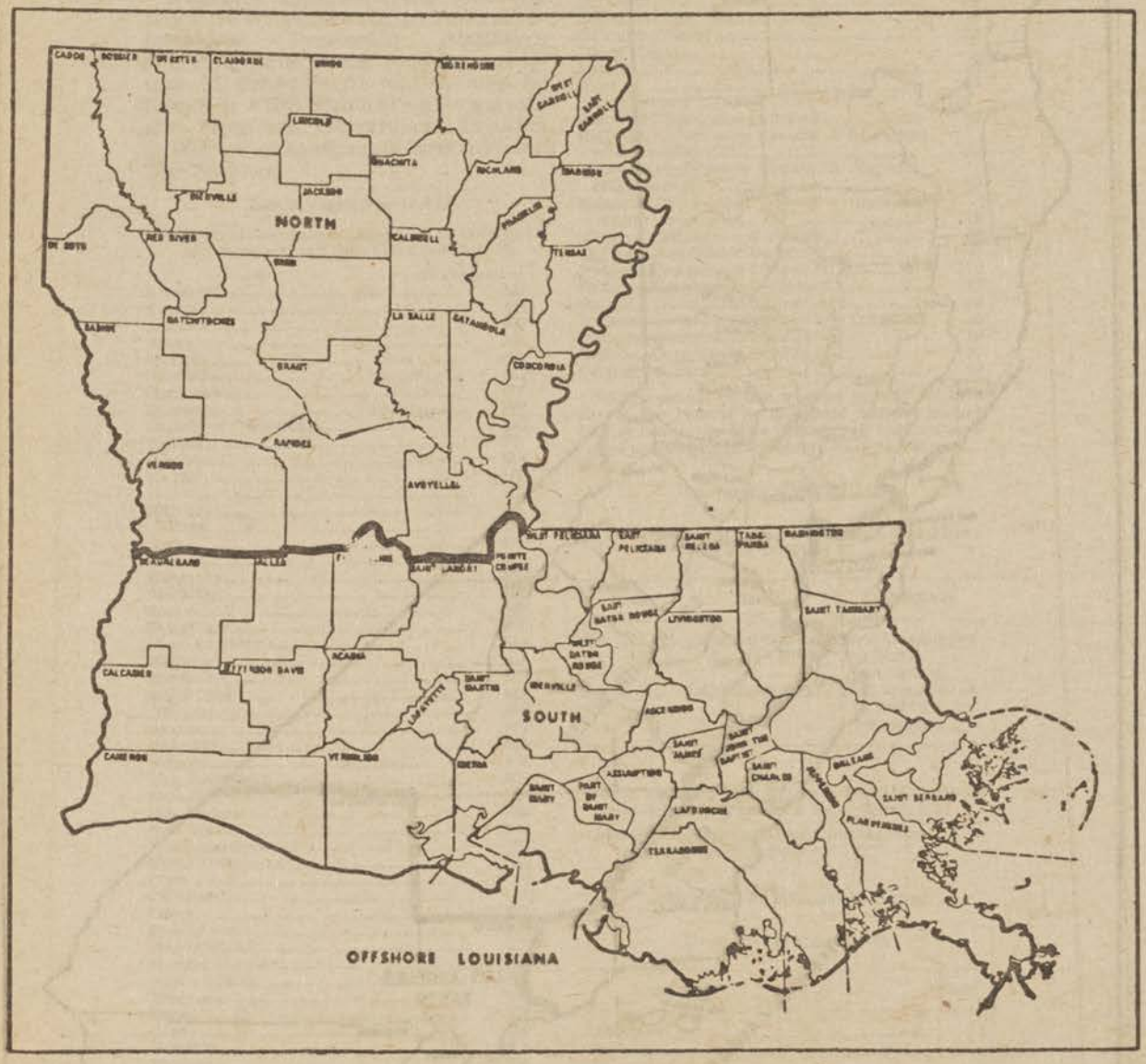
[Item 3.?-7 of Schedule 3]

Trap type	Code
Structural	1
Stratigraphic	2

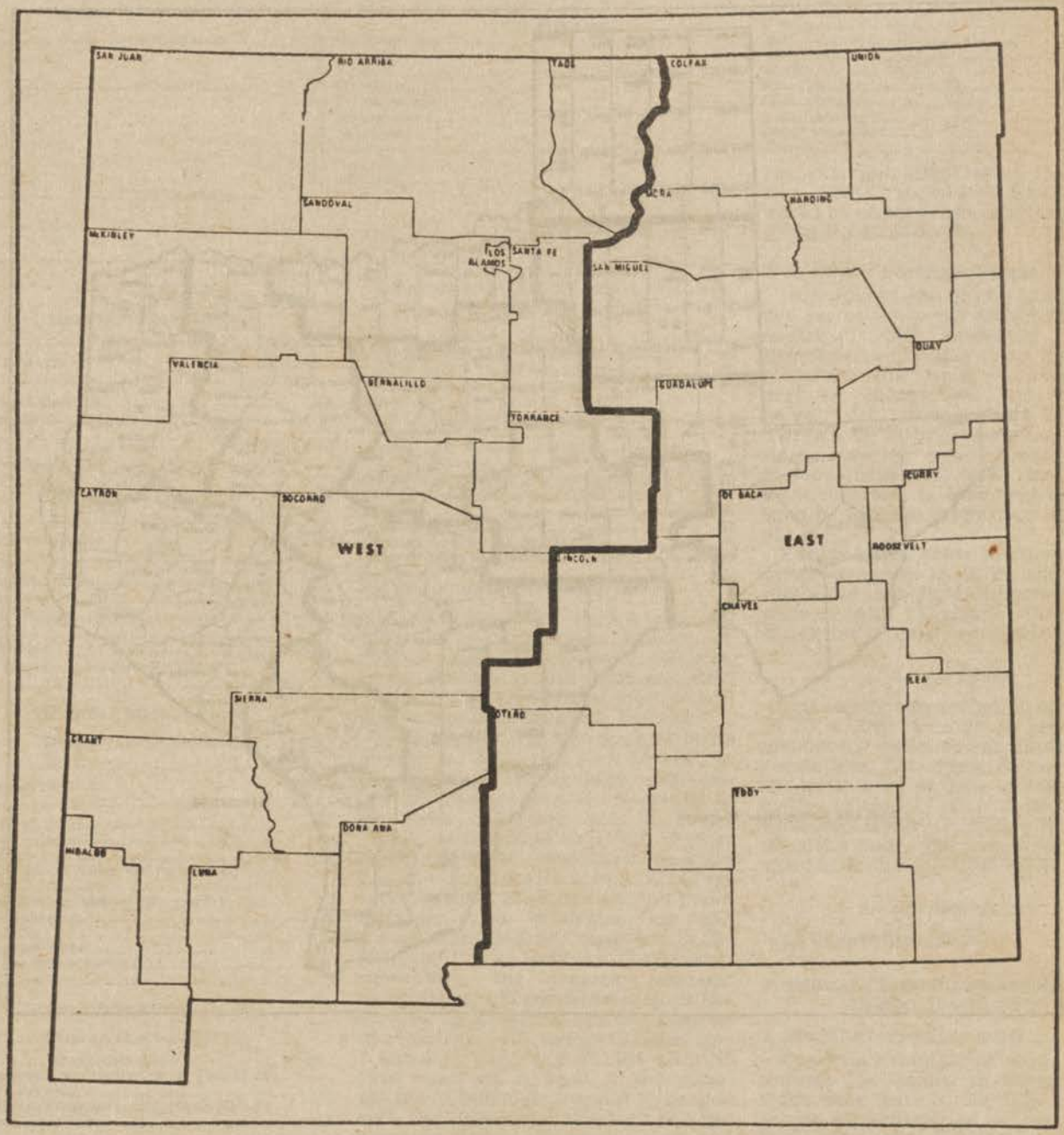
SUBDIVISIONS OF CALIFORNIA



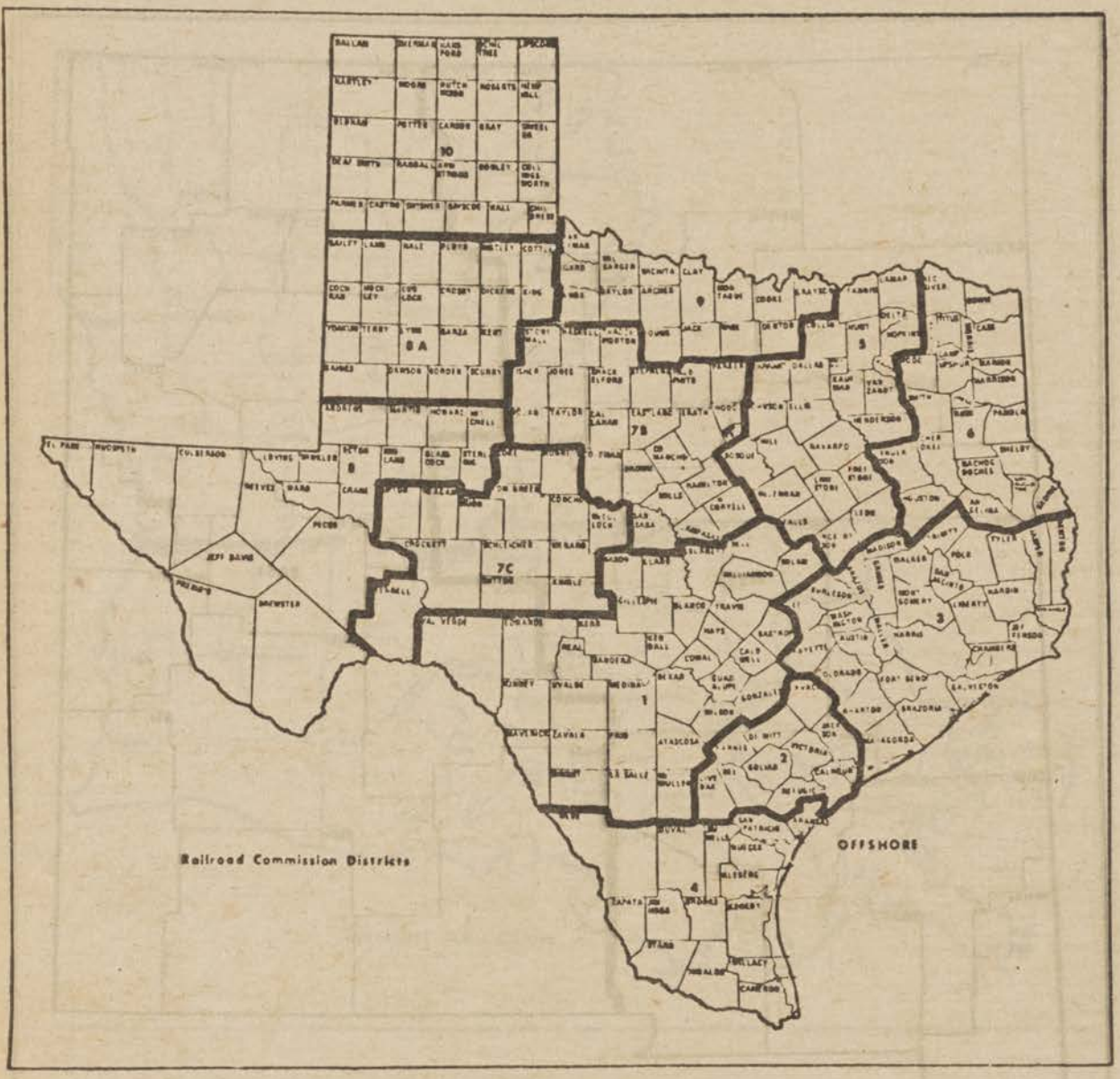
SUBDIVISIONS OF LOUISIANA



SUBDIVISIONS OF NEW MEXICO



SUBDIVISIONS OF TEXAS



GEOLOGIC AGE CODES

[Item 3.?-8 of Schedule 3]

Code	Era	Code	System	Code	Series
1	Cenozoic	11	Quartenary	111	Recent.
				112	Pleistocene.
		12	Tertiary	121	Pliocene.
				122	Miocene.
				123	Oligocene.
				124	Eocene.
				125	Paleocene.
2	Mesozoic	21	Cretaceous		
		22	Jurassic		
		23	Triassic		
3	Paleozoic	31	Permian		
		32	Pennsylvania		
		33	Mississippian		
		34	Devonian		
		35	Silurian		
		36	Ordovician		
		37	Cambrian		
4	Pre-Cambrian				

GAS TYPE CODES

[Item 3.?-9 of Schedule 3]

Gas type	Code
Associated-dissolved	A
Nonassociated	N

TYPE OF CALCULATION CODES

[Item 3.?-10 of Schedule 3]

Type of calculation	Code
Volumetric	1
Pressure decline	2
Material balance	3
Nominal	4
Time decline	5
Other (explain in footnote)	6

RECOVERY METHOD CODES

[Item 3.?-11 of Schedule 3]

Recovery method	Code
Waterflood	1
Polymer waterflood	2
Natural gas injection	3
Combination of water and natural gas injection	4
Carbon dioxide, alcohol, or miscible (solvent) fluid slug	5
Steam drive	6
In situ combustion	7
Other (explain in footnote)	8

PRODUCTION STATUS CODES

[Item 3.?-13 of Schedule 3]

Production status	*Code*
The reservoir was producing on Dec. 31 of the report year	P
The reservoir was not producing on Dec. 31 of the report year	N

NONPRODUCING REASON CODES

[Item 3.?-14 of Schedule 3]

Reason nonproducing	*Code*
Insufficient pressure to deliver into sales line	01
Waiting on installation of producing facilities	02
Waiting on installation of pipeline facilities	03

NONPRODUCING REASON CODES—Continued

[Item 3.?-14 of Schedule 3]

Reason nonproducing	*Code*
Workover required or in progress	04
Gas cap completion not being produced	05
Too remote to justify connection	06
Proved reserves known to exist but not being produced because of State or Federal regulations	07
Behind pipe awaiting depletion of other zone(s) in the well(s)	08
Proved reserves being developed by drilling	09
Replacement well or additional well required	10
Negotiating sales contract	11
Awaiting certification by FERC	12
Other (explain in footnote on schedule 4)	13

2. Field naming conventions

In most instances, field names will reflect the conventions inposed by state oil and gas regulatory agencies. In the absence of such authority, field names which have come into general acceptance in an area may be used.

Exceptions occur for names of fields located in Texas and New Mexico, in which states the regulatory agencies consider distinct geologic reservoirs to be "fields". For example, in Texas, Parker (Pennsylvanian) and Parker (Wolfcamp) are considered separate fields by the state. In actuality, Parker is the name of geologic field and Pennsylvanian and Wolfcamp are the names of the geologic reservoirs in the field (by Texas Railroad Commission convention, the geologic reservoir name appears in parentheses after the geologic field name). For the purpose of reporting field names on Schedules 2 and 3 of form EIA-23, the geologic field name will be used. In the example above, Schedule 3 would be headed with the field name "Parker" and the reservoir names "Pennsylvanian" and "Wolfcamp" would appear below it in the data fields marked "Reservoir Name".

For offshore fields, first enter the official name (if any) of the basic offshore area. Example: High Island. Any additions to basic areas must then be included in and follow the basic name, e.g., High Island East Addition. The block number must also be considered part of the field name, as in High Island East Addition Block 112. If offshore area names must be abbreviated to fit within the available data field length, the following standard abbreviations should be used:

North	N
South	S
East	E
West	W
Block	BLK
East Addition	EA
West Addition	WA
South Addition	SA
South Extension	SX
Island	IS

For example, High Island East Addition South Extension Block A-375 would be abbreviated as follows: High IS EA SX BLK A-375.

3. Reservoir naming conventions

In reservoirs or unitized fields where the gas or oil is commingled prior to metering, and production cannot therefore be credited to an individual reservoir, the word "Commingled" may be entered for the reservoir name. All commingled reservoirs within a field should be reported as a single reservoir entry. Known names of any individual reservoirs which were reported as commingled should then be listed in a footnote on Schedule 4.

Except in the above mentioned case, reservoir names must be listed separately for each field. Reservoir names such as "All", "Various", "Combined", or "Other" are not acceptable.

G. SANCTIONS

The timely submission of form EIA-23 by a firm required to report is a mandatory requirement under DOE regulations. Late filing, failure to file, failure to keep records, or failure otherwise to comply with these instructions may result in criminal fines, civil penalties and other sanctions as provided by by law (10 CFR 207.7).

H. CONFIDENTIALITY

To be provided later.

I. GENERAL INSTRUCTIONS (applicable to all Part II schedules)

1. Standard reporting units

Report all volumes of crude oil and natural gas liquids in thousands of stock tank barrels (42 U.S. gallons); report all volumes of natural gas in millions of cubic feet (MMcf) at 14.73 psia and 60 degrees Fahrenheit. Report volumes as whole numbers, i.e., tenths of a thousand barrels or tenths of a million cubic feet may not be used.

When the last three digits of the volume to be reported are less than

500 barrels or 500 Mcf, round down; if the volume is 500 barrels or 500 Mcf or larger, round up.

2. Standards for schedule preparation

a. Character set

1. Responses must be typewritten or legibly block printed in black ink. This form was designed to be completed using a ten (10) characters to the inch typewriter (also known as 10 pitch or standard pica). Use only capital (upper case) letters in completing the form.

2. Generally, all data fields of a line in which any data have been entered must contain either alphabetic characters or numbers. Blank data fields in other than a wholly unused line are unacceptable except where expressly allowed in individual item instructions. Use a zero ("0") to indicate "none". If data are not available, enter "NA".

b. Reproduction

If mechanically reproduced forms are submitted in lieu of originals, they must have been clearly reproduced at the exact same size as the originals and must have been accurately aligned during the reproduction process. Computer printouts in other than exact duplicate of the provided original forms are not acceptable.

c. Justification

In general, data (or "NA") must be entered so as to end in the right-most position of the data field, i.e., right justify the entry. The exceptions, noted here as well as in the individual schedule instructions, are "Operator Name", "Field Name" and "Reservoir Name", all of which should be left justified, i.e., they must begin in the left-most position of the data field.

d. Negative and positive volumes

Negative volumes are to be reported by entering a minus (=) sign in the space to the immediate left of the left-most digit. Plus (+) signs should never be used for positive volumes.

e. Filing sequence

Prior to submission, completed Part It must be assembled and serially paginated in the following order:

Page 1 Part II Cover Page/Attestation.

Page 2 of Schedule(s) 1 in alphabetical order by state, and by subdivision within applicable states. Schedule(s) 2 (if required). Field information on Schedule 2 is to be grouped alphabetically by state, by subdivision within applicable states, and by field name within subdivision or state. Schedule(s) 3 (if required) in alphabetical order by state, by subdivision within applicable states, and by field name within subdivision or state. Schedule(s) 4 (if needed).

J. SPECIFIC INSTRUCTIONS FOR PART II, SCHEDULE 1—"SUMMARY OF CRUDE OIL DRY NATURAL GAS, AND NATURAL GAS LIQUIDS RESERVES AND RELATED DATA—BY STATE AND SUBDIVISION"

1. Who must submit schedule 1

All operators of oil and/or gas wells in the United States whose gross production from properties which they operated as of December 31 of the report year equalled or exceeded 200,000 barrels of crude oil or one (1) billion cubic feet of dry natural gas (at 14.73 psia and 60 degrees Fahrenheit) are required to file Part II Schedule(s) 1.

2. What to submit

A Schedule 1 is to be filed for each state (except the states of California, Louisiana, New Mexico and Texas, in which cases a Schedule 1 is to be filed for each subdivision indicated herein) in which the operator/respondent operated oil and/or gas wells as of December 31 of the report year or held a working interest ownership in oil or gas reserves as of December 31 of the report year.

3. Item instructions

Item 1.1 *Operator ID code.*—Enter the six-digit operator code which has been assigned to you. This code number appears on the mailing label affixed to this forms package. If no code number appears on the mailing label, leave this data item blank.

Item 1.2 *Operator name.*—Enter the full legal name of the Operator/respondent. Left justify.

Item 1.3 *State abbreviation.*—Enter the two-character alphabetic abbreviation of the state to which data submitted on this schedule apply. For an offshore area, enter the abbreviation of the state to which it is adjacent (see State Abbreviations, P. 10).

Item 1.4 *Subdivision code.*—For California, Lousiana, New Mexico and Texas, enter the two-digit numeric code of the appropriate subdivision of the state (see Subdivision Codes, p. 11), to which the data reported on this schedule apply. For other States, enter "NA".

Item 1.5 *Report date.* Enter the last two digits of the report year for which data are reported on this schedule.

Item 1.6 *Original.*—Enter an "X" if this is the initial submission of this schedule. Leave blank otherwise.

Item 1.7 *Amended.*—Enter an "X" if this schedule updates a previously submitted schedule. Leave blank otherwise.

Item 1.8 *Page footnote.*—Enter the page number on which footnote(s) pertaining to data filed on this schedule begin. If there are no footnotes to data filed on this schedule, leave blank.

Item 1.9 *Page of* .—The current page number and last page number of your filing. See General Instructions regarding "Filing Sequence".

Section 2.1: Annual changes in proved reserves.—The data in this part of Schedule 1 are to be provided for proved reserves of crude oil, associated-dissolved dry natural gas and non-associated dry natural gas. The filing of natural gas liquids data is not required until report year 1979, on and after which such data shall also be completed.

Gross Company-Owned Domestic Proved Reserves: In the first four columns (a-d), enter data pertaining to any reserves in which you had working interest ownership during the report year, whether or not you were the operator of such reserves. Specifically, the data are to be reported on a gross working interest ownership basis (see definition of Ownership, p. 7).

Properties operated by respondent: Report (in columns e-h) data pertaining to all reserves in properties of which you were the operator as of December 31 of the report year, whether or not you were the working interest owner of such reserves. The data should reflect the entire year's operations of these properties, even if they were operated by other firms earlier in the year. Conversely, do not include data for properties of which you no longer were an operator on December 31. (Exception: data for properties abandoned during the report year due to proved reserve depletion are to be included.)

Special Provisions Regarding Reserves Operated by Respondent but Owned by a Subsidiary or Affiliated (Associated) Company

For any operated properties for which data are reported in columns e-h of section 2.1, if a subsidiary or affiliated (associated) company was a working interest owner during the year, it is incumbent upon the respondent to determine whether or not the affiliate is an operator required to file form EIA-23, Part II, Schedule(s) 1; if the affiliate is not required to file Schedule(s) 1, include affiliate's working interest ownership data for the pertinent properties combined with your ownership data in the columns e-h of section 2.1 and in a footnote identify the affiliate by name.

NOTE.—If those provisions apply in section 2.1, they also apply in a like and consistent manner to sections 3.0, 4.0, 5.0, and 6.0, a fact which will not be reiterated hereinafter.

Item 2.2 *Reserves—End of previous year.*—Enter the volumes of proved reserves owned, and those located in operated properties, at the end of the year *prior* to the report year.

Item 2.3 *Purchases of in-place reserves.*—Enter the volumes of in-place proved reserves purchased during the report year on a gross company-owned basis. (Columns to only. See

definition of Purchases and/or Sales of In-Place Reserves, p. 10).

Item 2.4 *Sale of in-place reserves.*—Enter the volumes of in-place proved reserves sold during the report year on a gross company-owned basis. (Columns a to d only. See definition of Purchases and/or Sales of In-Place Reserves, p. 8).

Item 2.5 *Net Corrections (+, −).*—Enter the volumes of net corrections (use minus sign if necessary) made to estimates of proved reserves during the report year. (See definition of Corrections, p. 3).

Item 2.6 *Revision Increases.*—Enter the volumes of additional proved reserves attributable to revisions (see definition of Revisions, p. 9).

Item 2.7 *Revision Decreases.*—Enter the reductions in proved reserves attributable to revisions (see definition of Revisions, p. 9).

Item 2.8 *Extensions.*—Enter the increased volumes of proved reserves due to extensions (see definition of Extensions, p. 4).

Item 2.9 *New field discoveries.*—Enter the volumes of proved reserves contained in new fields discovered during the report year (see definition of New Field discoveries, p. 6).

Item 2.10 *New reservoirs discovered in old fields.*—Enter the volumes of proved reserves contained in new reservoirs discovered in old fields (see definition of New Reservoir Discoveries in Old Fields, p. 6).

Item 2.11 *Report year production.*—Enter the volumes which were produced during the report year.

Item 2.12 Reserves: *End of report year.*—Enter the volumes of proved reserves which remain at the end of the report year. With the exception of natural gas liquids, these volumes should be equal to Reserves—End of Previous Year (Item 2.2) plus the algebraic sum of the changes in reserves during the report year (Items 2.3 thru 2.10), less production (Item 2.11).

Item 2.13 *Reserves in nonproducing reservoirs.*—Enter the volumes of proved reserves which occur in reservoirs which were in a nonproducing status as of December 31 of the report year (see definition of Nonproducing Reservoirs, p. 6).

Item 2.14 *Report year lease condensate production.*—Enter the volume of lease condensate produced during the report year (see definition of Lease Condensate, p. 5).

Item 2.15 *Indicated additional reserves of crude oil.*—Enter the volume of crude oil reserves which may become available in later years for production through the use of enhanced recovery techniques (see definition of Indicated Additional Reserves of Crude Oil, p. 4).

Section 3.0 Commitment status of proved dry natural gas reserves—(gross company-owned basis) (see definitions, p. 3).—Enter the gross company-owned volumes of dry natural gas reserves (associated-dissolved and nonassociated combined) by commitment to the specific types of contracts indicated, as of the end of the report year.

Item 3.1 and 3.2 *Interstate contracts and intrastate contracts:*

Column (a): For Resale, Long Term—Enter the total proved gas reserves committed to long term sales under interstate and intrastate contracts.

Column (b): For Resale, Short Term—Enter the total proved dry gas reserves committed to short term sales under interstate and intrastate contracts.

Column (c): Direct Sale, Industrial—Enter the total proved dry gas reserves committed under interstate and intrastate direct industrial sales contracts. This includes sales to other producers and to electric utilities.

Column (d): Direct Sale, Other—Enter the total proved dry gas reserves committed under interstate and intrastate direct sales contracts other than industrial. Include sales to gas processing plants where ultimate disposition of gas is unknown to the respondent.

Column (e): Warranty—Enter the total proved dry gas reserves committed under interstate and intrastate warranty contracts. Report only the volume of proved reserves held for fulfillment of warranty gas sales contracts as of the end of the report year, not contract sales volumes. By footnote on Schedule 4, indicate the volume of proved reserves that may yet need to be dedicated to fulfill the terms of this type of contract.

Item 3.3 *Other:*

Column (a): Company Use, Feedstock—Enter the total volume of proved dry natural gas reserves committed for use as feedstock.

Column (b): Company Use, Fuel—Enter the total volume of proved dry natural gas reserves committed for use as fuel in company operations.

Column (c): Other Committed—Enter the total volume of proved dry natural gas reserves committed under any other company contractual arrangements. Specify details in a footnote on Schedule 4.

Column (d): Uncommitted—Enter the total proved dry natural gas reserves which are uncommitted as of the end of the report year.

Section and item 4.0: Status of nonproducing dry natural gas reserves (gross company-owned basis).—Report the commitment status of gross company-owned proved dry natural gas reserves which occur in reservoirs which were in a nonproducing status as of December 31 of the report year (see definition of Nonproducing Reservoirs, p. 6).

Column (a): Nonproducing Committed, Interstate—Enter the total proved dry natural gas reserves which are committed to interstate contracts but are in a nonproducing status.

Column (b): Nonproducing Committed, Intrastate—Enter the total proved dry natural gas reserves which are committed to intrastate contracts but are in a nonproducing status.

Column (c): Nonproducing Uncommitted—Enter the total proved dry natural gas reserves which are not committed under any contractual arrangements or to company-use and are in a nonproducing status.

Section and Item 5.0: Net successful nonassociated gas well footage.—Enter the total net footage (the respondent's working interest) of successful gas well drilling completed during the report year related to nonassociated reserve additions. Nonassociated reserve additions include corrections and revisions of reserve estimates for nonassociated gas reserves as well as extensions of field, new field discoveries, and new reservoirs discovered in old fields, when they contain nonassociated natural gas. Footage is the distance from the surface to the point of deepest penetration measured along the well bore, or any portion of this distance drilled, which results in nonassociated reserve additions. Where new nonassociated reserves have been purchased or sold during the report year, the respondent who owned the reserves as of December 31 of the report year is to consider these reserves when totaling successful gas well footage and shall identify the quantity of such reserves in a footnote on Schedule 4.

Section 6.0: Net company-owned proved reserves.—The data in this section are to be entered for oil and natural gas reserves owned on a net working interest basis (See definition of ownership, p. 7).

Item 6.1 *Reserve additions during report year.*—Enter the volumes of proved oil (column a) and natural gas (column b) reserves added during the report year. Reserve additions are the algebraic sum of corrections, extensions, revisions, new field discoveries, and new reservoir discoveries in old fields.

Item 6.2 *Report year production.*—Enter the volumes of oil (column a) and natural gas (column b) produced during the report year.

Item 6.3 *Reserves: End of report year.*—Enter the volumes of proved oil (column a) and natural gas (column b) reserves which remain at the end of the report year.

K. SPECIFIC INSTRUCTIONS FOR PART II, SCHEDULE 2—"PROVED CRUDE OIL AND NATURAL GAS RESERVES, PRODUCTION AND RELATED DATA—BY FIELD"

1. Who must submit schedule 2

If gross production from properties which you operated as of December 31 of the report year equalled or exceed-

ed either 200,000 barrels of crude oil or 1 billion cubic feet of dry natural gas (at 14.73 psia and 60 degrees Fahrenheit) but was less than 1 million barrels of oil and 10 billion cubic feet of dry natural gas, you must submit Part II, Schedule 2 in addition to Part II, Schedule(s) 1.

2. What to submit

Data on Schedule 2 is to be provided for each state (except the states of California, Louisiana, New Mexico and Texas, in which cases the data are to be shown for each subdivision indicated herein) in which the respondent operated oil and/or gas wells as of December 31 of the report year. For every operated oil and gas field within each state or subdivision, including fields abandoned during the year due to reserves depletion, enter on each line of Schedule 2 data pertaining to only one type of hydrocarbon and only one category of proved reserves. Types of hydrocarbons are crude oil, nonassociated natural gas and associated-dissolved natural gas see definitions, p. 3, p. 6, and p. 2); categories of proved reserves are tested and untested (see definitions of proved reserves, p. 7 and p. 8). All data pertaining to an individual field should be entered on sequential lines.

Example: For a hypothetical field comprised of four reservoirs, two of which contain crude oil and associated-dissolved gas, one tested and one untested, and two of which are nonassociated gas reservoirs, one tested and one untested, consecutive line entries would be six, namely crude oil-tested, crude oil-untested, associated-dissolved gas-tested, associated-dissolved gas-untested, nonassociated gas-tested and nonassociated gas-untested.

Field information on Schedule 2 is to be arranged alphabetically by state, by subdivision within applicable states, and alphabetically by field name within subdivision or state. Complete all lines on each page of Schedule 2 before utilizing additional Schedule 2's.

Item instructions

Item 1.1 *Operator ID Code.*—Enter the six-digit operator code which has been assigned to you. This code number appears on the mailing label affixed to this forms package. If no code number appears on the mailing label, leave this data item blank.

Item. 1.2 *Operator name.*—Enter the full legal name of the respondent. Left justify.

Item 1.3 *Report date.*—Enter the last two digits of the report year for which data are reported on this schedule.

Item 1.4 *Original.*—Enter an "X" if this is the initial submission of this schedule. Leave blank otherwise.

Item 1.5 *Amended.*—Enter an "X" if this schedule updates a previously submitted schedule. Leave blank otherwise.

Item 1.6 *Page footnote.*—Enter the page number on which footnote(s) pertaining to data filed on this schedule appear. If there are no footnotes to data filed on this schedule, leave blank.

Item 1.7 *Page — of —.*—The current page number and last page number of your filing. (See General Instructions regarding "Filing Sequence").

Items 2.1 through 2.37:

Column (a): *Field Code.*—Do not fill in.

Column (b): *Field name.*—Enter the name of the field to which data in this line pertain (see Field Naming Conventions, p. 19). Left justify.

Column (c): *State abbreviation.*—Enter the two-character alphabetic abbreviation of the state to which data submitted on this line apply. For an off-shore area, enter the abbreviation of the state to which it is adjacent (see State Abbreviations, p. 10).

Column (d): *Subdivision code.*—For California, Louisiana, New Mexico and Texas enter the two-digit numeric code of the appropriate subdivision of the state (see Subdivision Codes, p. 11), to which the data reported on this line applies. For other states enter "NA".

Column (e): *County/Offshore code.*—For onshore areas, enter the three-digit numeric county or parish code for the principal county or parish in which the field is located. Consult Federal Information Processing Standards publication FIPS 6-2 for county and parish codes. If the field is located in more than one county, enter the code of the county which contains the largest operated lease acreage. For offshore field information reported for a subdivision which includes offshore-state areas, enter "990" as the County/Offshore Code. For offshore-federal subdivision fields, enter "995" as the County/Offshore code.

Column (f): *Continuation block.*—Enter "X" in this block if the field and geographic identification data pertaining to the remainder of the data submitted on this line are identical to that appearing in the preceding line. Otherwise leave blank.

Column (g): *Oil.*—Enter "X" in this block if the data reported on this line pertain to crude oil. Otherwise leave blank.

Column (h): *Associated-dissolved gas.*—Enter "X" in this block if the data reported on this line pertain to associated-dissolved natural gas. Otherwise leave blank.

Column (i): *Nonassociated gas.*—Enter "X" in this block if the data reported on this line pertain to nonassociated natural gas. Otherwise leave blank.

NOTE.—One and only one of Oil, A-D Gas and NA Gas should be checked within an individual line.

Column (j): *Tested.*—Enter an "X" if the data reported on this line pertain to tested reservoirs within the field. Otherwise leave blank.

Column (k): *Untested.*—Enter an "X" if the data reported on this line pertain to untested reservoirs within the field. Otherwise leave blank.

NOTE.—Check either Tested or untested on an individual line, not both.

Column (l): *Reserves at end of report year.*—Enter the estimated volume of proved reserves remaining in the field at the end of the report year, related to the type of hydrocarbon and category of proved reserves indicated for the line. Crude oil reserves are reported in units of thousands of U.S. barrels and natural gas reserves are reported on a dry basis at 14.73 psia and 60 degrees Fahrenheit. If the volume of reserves is not known, enter "NA".

Annual production:

Column (m): 1977.—If the volume of reserves in the field has been entered as requested above, report only the annual production for 1977, related to the type of hydrocarbon and category of proved reserves indicated for the line.

Columns (n-q): 1973-1976.—If the volume of proved reserves in the field has not been entered as requested above, report the annual production for the years 1973-1976, as well as 1977, related to the type of hydrocarbon and category of proved reserves indicated for the line. Leave blank otherwise. Note that production is by definition zero (0) for proved reserves which are untested.

L. SPECIFIC INSTRUCTIONS FOR SCHEDULE 3—"CRUDE OIL AND DRY NATURAL GAS RESERVES AND RELATED DATA—BY FIELD AND RESERVOIR"

1. Who must submit schedule 3

All operators whose gross production from properties operated by them as of December 31 of the report year equalled or exceeded either 1 million barrels of crude oil or 10 billion cubic feet of dry natural gas (at 14.73 psia and 60 degree Fahrenheit) must submit Part II, Schedule 3, in addition to Part II, Schedule 1. If you are required to submit Schedule 3, do not submit Schedule 2.

2. What to submit

1. Schedule(s) 3 are to be filed for each state (except the states of California, Louisiana, New Mexico and Texas in which cases the schedule(s) are to be filed for each subdivision indicated herein) in which you were an operator as of December 31 of the report year. A separate Schedule 3 must be filed for each field operated (including fields abandoned during the year due to reserves depletion).

2. For report years 1977 and 1978, all reserves will be filed by field, and in

addition the following classes of operators will report reserves by reservoir on Schedule 3, to the extent indicated:

A. If you are a jurisdictional natural gas company as defined by the Natural Gas Act, you are required to report all of your operated gas reserves by reservoir.

b. If you are the operator of oil wells which as defined herein, were related to nonproducing reserves, new field discoveries, new reservoir discoveries in old fields, extensions to old reservoirs, revisions to old reservoirs, or reservoirs located under Federal lands, you are required to report such oil reserves by reservoir.

c. If you are a nonjurisdictional natural gas company and the operator of natural gas wells which, as defined herein, were related to nonproducing reserves, new field discoveries, new reservoir discoveries in old fields, extensions to old reservoirs located under Federal lands, you are required to report such gas reserves by reservoirs.

3. For report year 1979 and thereafter, all operators who equal or exceed the cutoff limits described in section L-1 above are required to file all of their reserves by reservoir.

3. Item instructions

Section 1.0 Operator identification data:

Item 1.1 *Operator ID code.*—Enter the six-digit operator identification which has been assigned to you. This code number appears on the mailing label affixed to this forms package. If no code number appears on the mailing label, leave this data item blank.

Item 1.2 *Operator name.*—Enter the full legal name of the respondent. Left justify.

Item 1.3 *Report date.*—Enter the last two digits of the report year for which data are reported on this schedule.

Item 1.4(a) *Original report.*—Enter an "X" if this is the initial submission of this schedule. Leave blank otherwise.

Item 1.4(b) *Amended report.*—Enter an "X" if this schedule updates a previously submitted schedule. Leave blank otherwise.

Item 1.5 *Page footnote.*—Enter the page number on which footnote(s) pertaining to data filed on this schedule appear. If there are no footnotes to data filed on this schedule, leave blank.

Item 1.6 *Page indicator page—of—*.—The current page number and last page number of your filing. (See General Instructions regarding "Filing Sequence").

Section 2.0 Field identification data:

Item 2.1: *Field code.*—Do not fill in.

Item 2.2: *Field name.*—Enter the name of the field to which information reported on this schedule applies (see Field Naming Conventions, p. 19). Left justify.

Item 2.3: *State abbreviation.*—Enter the two-character alphabetic abbreviation of the state to which data submitted on this schedule apply. For an offshore area, enter the code of the state to which it is adjacent (see State Abbreviations, p. 10).

Item 2.4: *Subdivision code.*—For California, Louisiana, New Mexico and Texas, enter the two-digit numeric code of the appropriate subdivision of the state (see Subdivision Codes, p. 11), to which the data reported on this schedule apply. For other states, enter "NA".

Item 2.5: *County/offshore code.*—For onshore areas, enter the three-digit numeric county or parish code for the county or parish in which the field is located. Consult Federal Information Processing System Standards publication FIPS 6-2 for county and parish code. If the field is located in more than one county, enter the code of the county which contains the largest operated lease acreage. For offshore field information reported for a subdivision which includes offshore-state areas, enter "990" as the County/Offshore Code. For offshore-Federal subdivisions, enter "995" for County/Offshore Code.

Item 2.6: *Block number.*—For offshore fields enter the block number. If there is no block number, enter "NA". If the reported field is in more than one block, report the block number of that block which contains the largest proved acreage.

Item 2.7: *Federal lease number.*—For offshore fields enter the five-digit numeric OCS lease number associated with the block number reported in the previous item. For onshore fields, enter the seven-digit numeric portion of the Federal lease number. This item does not apply to leases located on other than Federal lands, in which case enter "NA".

Item 2.8: *Field discovery year.*—Enter the year in which the field was discovered.

Item 2.9: *Number of reservoirs in field.*—Enter the total number of reservoirs which you operate in the field.

Section 3.0 Reservoir data:

NOTE.—There is room on a single Schedule 3 for six individual reservoir reports (Items 3.1-3.0). Should there be more than six reservoirs in the field, skip the field total block at the bottom of the schedule and continue on the next Schedule 3, repeating section 1.0 in its entirety and entering only Field Name, State Abbreviation and Subdivision Code in section 2.0.

Item 3.?-0: *Reservoir code.*—Do not fill in.

Item 3.?-1: *Reservoir name.*—Enter the name of the reservoir to which data reported on this as well as the next two lines apply. (See Reservoir Naming Conventions, p. 19). Left justify.

Item 3.?-2: *Depth to midpoint.*—Enter the average distance in feet from ground level to the midpoint of the gas/oil reservoir; offshore, enter the average distance in feet from the seabed to the midpoint of the gas/oil reservoir.

Item 3.?-3: *Water depth.*—Offshore, enter the depth in feet of the water column from sea level to seabed. For onshore reservoirs enter "NA".

Item 3.?-4: *Discovery year.*—Enter the last two digits of the calendar year in which the reservoir was discovered. (See Definition of Reservoir Discovery Year, p. 9).

Item 3.?-5: *Year of first production.*—Enter the last two digits of the calendar year in which the reservoir first began production of oil and/or natural gas.

Item 3.?-6: *Lithology of reservoir.*—Not required for report year 1977. Enter the two-digit numeric code for the predominant lithology of the reservoir (see Lithology Codes, p. 16).

Item 3.?-7: *Trap type.*—Not required for the report year 1977. Enter the one digit numeric code for the type of trap applicable for the reservoir (see Trap Type Codes, p. 16).

Item 3.?-8: *Geologic age.*—Not required for report year 1977. Enter the three-digit numeric code for the geologic age of the reservoir rock (see Geologic Age Codes, p. 16).

Item 3.?-9: *Gas type.*—If a gas reservoir, enter the one-character code for the type of gas occurring in the reservoir (see Gas Type Codes, p. 17). Leave blank otherwise.

Item 3.?-10: *Type calculation.*—Enter the one-digit numeric code applicable to the type of calculation used to make the oil and/or gas estimate for the reservoir (see Type of Calculation Codes, p. 17).

Item 3.?-11: *Recovery method.*—For oil reservoirs, enter the one-digit numeric code applicable to the type of recovery method expected to be used to extract any indicated additional oil reserves reported in the next data field (see Recovery Method Codes, p. 17). Does not apply to recovery or proved oil reserves or recovery of gas reserves, in which case leave blank.

Item 3.?-12: *Indicated additional oil reserves.*—Enter the volume of crude oil reserves estimated to be recoverable in the future through the application of improved (secondary and teritiary) recovery methods to this reservoir. (see difinition of Indicated Additional Reserves of Crude Oil, p. 4). Does not apply to recovery of proved oil reserves or gas reserves, in which case enter "NA".

Item 3.?-13: *Production status.* — Enter the one-digit numeric code describing the production status of the reservoir (see Production Status Codes, p. 18 and definition of Nonproducing Reservoirs, p. 6).

Item 3.?-14: *Reason nonproducing.*—If the reservoir is in non-producing status, enter the two-digit numeric code which identifies the principal reason for the nonproducing status of the reservoir (see Reason Nonproducing Codes, p. 18). If producing, enter "NA".

Item 3.?-15: *Date of last production.*—If the reservoir is in nonproducing status, enter the month and the last two digits of the year in which the reservoir last produced (Example: March 1977 would be 0377). If the reservoir has yet to commence production but is in nonproducing status, or if it is producing, enter "NA".

Item 3.?-16: *Estimated date of future production.*—If a reservoir is in nonproducing status, enter the month and the last two digits of the calendar year in which production is expected to commence. If a reservoir is currently producing, enter "NA".

Item 3.?-17 and 3.?-18:

NOTE.—Report crude oil data in Item 3.?-17 in thousands of U.S. barrels. Report natural gas data in Item 3.?-18 in millions of cubic feet at 14.73 psia and 60 degrees Fahrenheit.

Column (a): *Tested*—Enter an "X" if the data reported on the line represent tested proven reserves (see definitions of Proved Reserves of Crude Oil *and* Proved Reserves of Natural Gas on pages 7 and 8). If tested, leave blank.

Column (b): *Untested*—Enter an "X" if the data reported on line represent untested proved reserves (see definitions of Proved Reserves of Crude Oil *and* Proved Reserves of Natural Gas on pages 7 and 8). If tested, leave blank.

Column (c): *Original hydrocarbons in-place*—Enter the estimated original volumes of in-place oil or wet natural gas in the reservoir.

Column (d): *Original recoverable hydrocarbons*—Enter the volumes of oil or wet natural gas reserves originally in-place in the reservoir which are estimated to be recoverable under existing economic and operating conditions.

Column (e): *Cumulative production.*—Enter the cumulative oil or wet natural gas production for the reservoir through the end of the year prior to the report year. Note that production from untested proved reserves is by definition zero (0).

Column (f): *Remaining recoverable hrdrocarbons.*—Enter the volumes of crude oil or wet natural gas reserves in-place which are estimated to be recoverable from the reservoir under existing economic and operating conditions as of the end of the year prior to the report year. This is original recoverable hydrocarbons less cumulative production.

Column (g): *Reserves at end of previous year.*—Enter the volumes of proved oil or *dry* natural gas reserves which are estimated to be recoverable from the reservoir under existing economic and operating conditions as of the end of the year prior to the report year. The crude oil figure will be the same as remaining recoverable hydrocarbons-oil, but the natural gas figure reflects shrinkage from wet to dry basis.

Column (h): *Corrections* (+,−)—Enter the net positive (without + sign) or negative (with − Sign) volume of changes to oil or dry natural gas reserves at end of previous year which occurred during the report year due to corrections (see definition of corrections, page 3).

Column (i): *Revisions* (+,−).—Enter the net positive (without + sign) or negative (with − sign) volume of changes to oil or dry natural gas reserves at end of previous year which occurred during the report year due to revisions (see definition of revisions, p 9).

Column (j): *Extensions.*—Enter the positive (without + sign) volume of changes to oil or dry natural gas reserves at end of previous year which occurred during the report year due to extensions (see definition of extensions, p. 4).

Column (k): *Report year production*—Enter the volumes of oil or dry natural gas produced during report year.

Column (l): *Reserves at end of report year.*—Enter the volumes of proved oil or dry natural gas reserves which remain in the reservoir as of the end of the report year. This amount is Reserves at End of Previous Year plus the algebraic sum of Corrections, Revisions, Extensions and Report Year Production, except in the case of a reservoir discovered during the report year.

Section 4.0 Field total data:

NOTE.—Report crude oil field total data in Item 4.1 in thousands of U.S. barrels. Report Associated-Dissolved natural gas field total data in Item 4.2 and Nonassociated natural gas field total data in Item 4.3, both in millions of cubic feet at 14.73 psia and 60 degrees Fahrenheit. Tested and untested proved reserves are not distinguished on these lines.

Items 4.1, 4.2 and 4.3:

Column (a): *Original hydrocarbons in-place*—Enter the estimated volumes of in-place oil or wet natural gas reserves, by type of gas, contained in the field.

Column (b): *Original recoverable hydrocarbons*—Enter the volumes of oil or wet natural gas reserves, by type of gas, originally in-place in the field which are estimated to be recoverable under existing economic and operating conditions.

Column (c): *Cumulative production*—Enter the cumulative oil or wet natural gas production, by type of gas, for the field through the end of the year prior to the report year. Note that by definition there has been no production from untested proved reserves.

Column (d): *Remaining recoverable hydrocarbons*—Enter the volumes of crude oil or wet natural gas reserves in-place, by type of gas, which are estimated to be recoverable from the field under existing economic and operating conditions as of the end of the year prior to the report year. This is original recoverable hydrocarbons less cumulative production.

Column (e): *Reserves at end of previous year*—Enter the volumes of proved oil or dry natural gas reserves, by type of gas, which are estimated to be recoverable from the field under existing economic and operating conditions as of the end of the year prior to the report year. The crude oil figure will be the same as remaining recoverable hydrocarbons-oil, but the natural gas figure(s) reflect shrinkage from wet to dry basis.

Column (f): *Corrections* (+,−)—Enter the net positive (without + sign) or negative (with − sign) volume of changes to oil or dry natural gas reserves, by type of gas, at end of previous year which occurred during the report year due to corrections (see definition of Corrections, p. 3).

Column (g): Revisions (+,−)—Enter the net positive (without + sign) or negative (with − sign) volume of changes to oil or dry natural gas reserves, by type of gas, at end of previous year which occurred during the report year due to revisions (see definition of Revisions, p. 9).

Column (h): *Extensions*—Enter the positive (without + sign) volume of changes to oil or dry natural gas reserves, by type of gas, at end of previous year which occurred during the report year due to extensions (see definition of Extensions, p. 4).

Column (i): *Report year production*—Enter the volumes of oil or dry natural gas, by type of gas, produced from the field during the report year.

Column (j): *Reserves at end of report year*—Enter the volumes of proved oil or dry natural gas reserves, by type of gas, which remain in the field as of the end of the report year. This amount is Reserves at End of Previous Year plus the algebraic sum of Corrections, Revisions, Extensions and Report Year Production, except in the case of a field or reservoir discovered during the report year.

M. SPECIFIC INSTRUCTIONS FOR SCHEDULE 4—"FOOTNOTES"

1. Who must submit

Any operator who must submit Schedule(s) 1, and Schedule(s) 2 or 3 must submit a footnote schedule if any footnoted information is specifi-

cally required by the instructions to those schedules as referenced to his particular circumstances. Additionally, although not required, an operator may wish to occassionally footnote certain reported items on this own initiative in order to assure their clarity.

2. What to submit

At a minimum, submit footnotes in clarification of reported data items when required to do so by the instructions to the applicable schedule. Footnotes to more than one other schedule may appear on a single Schedule 4.

3. Items instructions

Item 1.1 *Operator ID code.*—Enter the six-digit numeric operator code which has been assigned to you. This number appears on the mailing label affixed to this forms package. If no such number appears on the label, leave blank.

Item 1.2 *Operator Name.*—Enter the exact legal name of the respondent. Left justify.

Item 1.3 *Report year 19* .—Enter the last two digits of the report year.

Item 1.4 *Original.*—Enter an "X" if this is the initial submission of this schedule. Leave blank otherwise.

Item 1.5 *Amended.*—Enter an "X" if this schedule updates a previously submitted schedule. Leave blank otherwise.

Item 1.6 *Page—Of*——Enter the current page number and the last page number of the filing.

Footnote Lines

Column A: *Schedule*—Enter the identifying number of the schedule to which the footnote on this line is referenced.

Column B: *Page number*—Enter the page number of the schedule to which the footnote on this line is referenced.

Column C: *Line number*—Enter the line number of the page and schedule to which the footnote on this line is referenced.

Column D: *Item number*—Enter the item number of the line, page and schedule to which the footnote on this line is referenced.

Column E: *Sequence number*—Enter the sequence number of this footnote line. For a single line footnote, enter a "1". For multiple line footnotes, enter serially ascending digits beginning with "1".

Column F: *Footnotes*—Enter the appropriate footnote.

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Supercedes
FPC 40
FEA P-301-S-0

Form Approved
O.M.B. No.

U.S. Department of Energy
Energy Information Administration
Form EIA-23

PART II
DETAILED REPORT OF PROVED CRUDE OIL, NATURAL GAS AND NATURAL GAS LIQUIDS RESERVES, PRODUCTION AND RELATED FACTORS

NOTE: Fill in Part II only if your production for the previous calendar year equalled or exceeded either 200,000 barrels of crude oil or 1 billion cubic feet of dry natural gas.

A. Operator I.D. Code (from mailing label) _____

B. OPERATOR IDENTIFICATION
a. Name _____
b. Street/Box/RFD _____ c. City _____
d. State _____ e. ZIP _____ f. Contact Person _____
g. Title _____ h. Telephone Number ( ) _____

PARENT COMPANY (IF ANY) IDENTIFICATION
a. Name _____
b. Street/Box/RFD _____ c. City _____
d. State _____ e. ZIP _____ f. Contact Person _____
g. Title _____ h. Telephone Number ( ) _____

C. Certification
I certify that the information provided herein and appended hereto is true and correct to the best of my knowledge and belief.

Name _____ Signature _____
Title _____ Date _____

Title 18 USC 1001 makes it a criminal offense for any person knowingly and willingly to make to any Agency or Department of the United States any false, fictitious or fraudulent statements as to any matter within its jurisdiction

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SCHEDULE 1 — SUMMARY OF CRUDE OIL, DRY NATURAL GAS, AND NATURAL GAS LIQUIDS RESERVES AND RELATED DATA — BY STATE AND SUBDIVISION

(REPORT ALL VOLUMES OF CRUDE OIL AND NATURAL GAS LIQUIDS IN THOUSANDS OF BARRELS [MBbls] ; NATURAL GAS IS TO BE REPORTED IN MILLIONS OF CUBIC FEET [MMcf] AT 60°F AND 14.73 PSIA)

Form Approved
O.M.B. No.

1.0 OPERATOR IDENTIFICATION DATA

1.1 OPERATOR I.D. CODE	1.2 OPERATOR NAME	1.3 STATE ABBREVIATION	1.4 SUBDIVISION CODE	1.5 REPORT DATE	1.6 ORIGINAL	1.7 AMENDED	1.8 PAGE FOOTNOTE	1.9 PAGE ____ OF ____
				1 2 3 1				-

2.0 RESERVES DATA

2.1 ANNUAL CHANGES IN PROVED RESERVES AND RELATED DATA	GROSS COMPANY – OWNED DOMESTIC PROVED RESERVES				PROPERTIES OPERATED BY RESPONDENT			
	OIL (MBbls) (a)	ASSOCIATED – DISSOLVED DRY GAS (MMcf) (b)	NON ASSOCIATED DRY GAS (MMcf) (c)	NATURAL GAS LIQUIDS (MBbls) (d)	OIL (MBbls) (e)	ASSOCIATED – DISSOLVED DRY GAS (MMcf) (f)	NON ASSOCIATED DRY GAS (MMcf) (g)	NATURAL GAS LIQUIDS (MBbls) (h)
2.2 RESERVES END OF PREVIOUS YEAR								
2.3 PURCHASES OF IN-PLACE RESERVES								
2.4 SALES OF IN-PLACE RESERVES								
2.5 NET CORRECTIONS (+,–)								
2.6 REVISION INCREASES								
2.7 REVISION DECREASES								
2.8 EXTENSIONS								
2.9 NEW FIELD DISCOVERIES								
2.10 NEW RESERVOIRS IN OLD FIELDS								
2.11 REPORT YEAR PRODUCTION								
2.12 RESERVES END OF REPORT YEAR								
2.13 RESERVES IN NONPRODUCING RESERVOIRS								
2.14 REPORT YEAR LEASE CONDENSATE PRODUCED								
2.15 INDICATED ADDITIONAL RESERVES OF OIL								

3.0 COMMITMENT STATUS OF PROVED DRY NATURAL GAS RESERVES (GROSS COMPANY-OWNED BASIS)

	FOR RESALE		DIRECT SALE		
	LONG TERM (a)	SHORT TERM (b)	INDUSTRIAL (c)	OTHER (d)	WARRANTY (e)
3.1 INTERSTATE CONTRACTS					
3.2 INTRASTATE CONTRACTS					

3.3 OTHER	COMPANY USE		OTHER COMMITTED (c)	UNCOMMITTED (d)
	FEED STOCK (a)	FUEL (b)		

4.0 STATUS OF NON PRODUCING DRY NATURAL GAS RESERVES (GROSS COMPANY –OWNED BASIS)	COMMITTED INTERSTATE (a)	COMMITTED INTRASTATE (b)	UNCOMMITTED (c)

5.0 NET SUCCESSFUL NONASSOCIATED GAS WELL FOOTAGE	FEET

6.0 NET COMPANY – OWNED PROVED RESERVES	OIL (MBbls) (a)	NATURAL GAS (MMcf) (b)
6.1 RESERVE ADDITIONS DURING REPORT YEAR		
6.2 REPORT YEAR PRODUCTION		
6.3 RESERVES END OF REPORT YEAR		

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SCHEDULE 2 – SUMMARY OF CRUDE OIL AND NATURAL GAS RESERVES AND PRODUCTION DATA BY FIELD

(REPORT ALL VOLUMES OF CRUDE OIL IN THOUSANDS OF BARRELS (MBbls); NATURAL GAS IS TO BE REPORTED IN MILLIONS OF CUBIC FEET (MMcf) AT 60° F. AND 14.73 PSIA)

Form Approved
O.M.B. No.

1.0 OPERATOR IDENTIFICATION DATA

1.1 OPERATOR I. D. CODE | 1.2 OPERATOR NAME | 1.3 REPORT DATE | 1.4 ORIGINAL | 1.5 AMENDED | 1.6 PAGE FOOTNOTE | 1.7 PAGE ____ OF ____

2.0 FIELD DATA

	FIELD CODE (a)	FIELD NAME (b)	STATE ABBREVIATION (c)	SUBDIVISION CODE (d)	COUNTY/ OFFSHORE CODE (e)	CONTINUATION BLOCK (f)	OIL (g)	ASSOCIATED-DISSOLVED GAS (h)	NONASSOCIATED GAS (i)	TESTED (j)	UNTESTED (k)	RESERVES AT END OF REPORT YEAR (l)	ANNUAL PRODUCTION 1977 (m)	1976 (n)	1975 (o)	1974 (p)	1973 (q)
2.1																	
2.2																	
2.3																	
2.4																	
2.5																	
2.6																	
2.7																	
2.8																	
2.9																	
2.10																	
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2.34																	
2.35																	
2.36																	
2.37																	

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SCHEDULE 3 — CRUDE OIL AND DRY NATURAL GAS RESERVES AND RELATED DATA BY FIELD AND RESERVOIR

(REPORT ALL VOLUMES OF CRUDE OIL IN THOUSANDS OF BARRELS [MBbls] ; NATURAL GAS IS TO BE REPORTED IN MILLIONS OF CUBIC FEET [MMcf] AT 60°F. AND 14.73 PSIA)

Form Approved
O.M.B. No.

1.0 OPERATOR IDENTIFICATION DATA:

1.1 OPERATOR I.D. CODE | 1.2 OPERATOR NAME | 1.3 REPORT DATE 1|2|3|1|

1.4 REVISED REPORT INDICATOR (a) ☐ Original Report (b) ☐ Amended Report | 1.5 PAGE FOOTNOTE | 1.6 PAGE INDICATOR | PAGE | OF

2.0 FIELD IDENTIFICATION DATA:

2.1 FIELD CODE | 2.2 FIELD NAME | 2.3 STATE ABBREVIATION | 2.4 SUBDIVISION CODE | 2.5 COUNTY OFFSHORE CODE

2.6 BLOCK NUMBER | 2.7 FEDERAL LEASE NUMBER | 2.8 FIELD DISCOVERY YEAR | 2.9 NUMBER OF RESERVOIRS IN FIELD

3.0 RESERVOIR DATA:

3.1 RESERVOIR CODE:

1. RESERVOIR NAME | 2. DEPTH TO MIDPOINT | 3. WATER DEPTH | 4. DISCOVERY YEAR | 5. YEAR OF FIRST PRODUCTION | 6. LITHOLOGY | 7. TRAP TYPE

8. GEOLOGIC AGE | 9. GAS TYPE | 10. TYPE CALCULATION | 11. RECOVERY METHOD | 12. INDICATED ADDITIONAL RESERVES | 13. PRODUCTION STATUS | 14. REASON NONPRODUCING | 15. DATE OF LAST PRODUCTION | 16. ESTIMATED DATE OF FUTURE PRODUCTION

TYPE HYDROCARBON	TESTED (a)	UNTESTED (b)	ORIGINAL HYDROCARBONS IN-PLACE (c)	ORIGINAL RECOVERABLE HYDROCARBONS (d)	CUMULATIVE PRODUCTION (e)	REMAINING RECOVERABLE HYDROCARBONS (f)	RESERVES AT END OF PREVIOUS YEAR (g)	CORRECTIONS (+,−) (h)	REVISIONS (+,−) (i)	EXTENSIONS (j)	REPORT YEAR PRODUCTION (k)	RESERVES AT END OF REPORT YEAR (l)
17. OIL (MBbls)												
18. GAS (MMcf)*												

3.2 RESERVOIR CODE:

1. RESERVOIR NAME | 2. DEPTH TO MIDPOINT | 3. WATER DEPTH | 4. DISCOVERY YEAR | 5. YEAR OF FIRST PRODUCTION | 6. LITHOLOGY | 7. TRAP TYPE

8. GEOLOGIC AGE | 9. GAS TYPE | 10. TYPE CALCULATION | 11. RECOVERY METHOD | 12. INDICATED ADDITIONAL RESERVES | 13. PRODUCTION STATUS | 14. REASON NONPRODUCING | 15. DATE OF LAST PRODUCTION | 16. ESTIMATED DATE OF FUTURE PRODUCTION

TYPE HYDROCARBON	TESTED (a)	UNTESTED (b)	ORIGINAL HYDROCARBONS IN-PLACE (c)	ORIGINAL RECOVERABLE HYDROCARBONS (d)	CUMULATIVE PRODUCTION (e)	REMAINING RECOVERABLE HYDROCARBONS (f)	RESERVES AT END OF PREVIOUS YEAR (g)	CORRECTIONS (+,−) (h)	REVISIONS (+,−) (i)	EXTENSIONS (j)	REPORT YEAR PRODUCTION (k)	RESERVES AT END OF REPORT YEAR (l)
17. OIL (MBbls)												
18. GAS (MMcf)*												

3.3 RESERVOIR CODE:

1. RESERVOIR NAME | 2. DEPTH TO MIDPOINT | 3. WATER DEPTH | 4. DISCOVERY YEAR | 5. YEAR OF FIRST PRODUCTION | 6. LITHOLOGY | 7. TRAP TYPE

8. GEOLOGIC AGE | 9. GAS TYPE | 10. TYPE CALCULATION | 11. RECOVERY METHOD | 12. INDICATED ADDITIONAL RESERVES | 13. PRODUCTION STATUS | 14. REASON NONPRODUCING | 15. DATE OF LAST PRODUCTION | 16. ESTIMATED DATE OF FUTURE PRODUCTION

TYPE HYDROCARBON	TESTED (a)	UNTESTED (b)	ORIGINAL HYDROCARBONS IN-PLACE (c)	ORIGINAL RECOVERABLE HYDROCARBONS (d)	CUMULATIVE PRODUCTION (e)	REMAINING RECOVERABLE HYDROCARBONS (f)	RESERVES AT END OF PREVIOUS YEAR (g)	CORRECTIONS (+,−) (h)	REVISIONS (+,−) (i)	EXTENSIONS (j)	REPORT YEAR PRODUCTION (k)	RESERVES AT END OF REPORT YEAR (l)
17. OIL (MBbls)												
18. GAS (MMcf)*												

3.4 RESERVOIR CODE:

1. RESERVOIR NAME | 2. DEPTH TO MIDPOINT | 3. WATER DEPTH | 4. DISCOVERY YEAR | 5. YEAR OF FIRST PRODUCTION | 6. LITHOLOGY | 7. TRAP TYPE

8. GEOLOGIC AGE | 9. GAS TYPE | 10. TYPE CALCULATION | 11. RECOVERY METHOD | 12. INDICATED ADDITIONAL RESERVES | 13. PRODUCTION STATUS | 14. REASON NONPRODUCING | 15. DATE OF LAST PRODUCTION | 16. ESTIMATED DATE OF FUTURE PRODUCTION

TYPE HYDROCARBON	TESTED (a)	UNTESTED (b)	ORIGINAL HYDROCARBONS IN-PLACE (c)	ORIGINAL RECOVERABLE HYDROCARBONS (d)	CUMULATIVE PRODUCTION (e)	REMAINING RECOVERABLE HYDROCARBONS (f)	RESERVES AT END OF PREVIOUS YEAR (g)	CORRECTIONS (+,−) (h)	REVISIONS (+,−) (i)	EXTENSIONS (j)	REPORT YEAR PRODUCTION (k)	RESERVES AT END OF REPORT YEAR (l)
17. OIL (MBbls)												
18. GAS (MMcf)*												

3.5 RESERVOIR CODE:

1. RESERVOIR NAME | 2. DEPTH TO MIDPOINT | 3. WATER DEPTH | 4. DISCOVERY YEAR | 5. YEAR OF FIRST PRODUCTION | 6. LITHOLOGY | 7. TRAP TYPE

8. GEOLOGIC AGE | 9. GAS TYPE | 10. TYPE CALCULATION | 11. RECOVERY METHOD | 12. INDICATED ADDITIONAL RESERVES | 13. PRODUCTION STATUS | 14. REASON NONPRODUCING | 15. DATE OF LAST PRODUCTION | 16. ESTIMATED DATE OF FUTURE PRODUCTION

TYPE HYDROCARBON	TESTED (a)	UNTESTED (b)	ORIGINAL HYDROCARBONS IN-PLACE (c)	ORIGINAL RECOVERABLE HYDROCARBONS (d)	CUMULATIVE PRODUCTION (e)	REMAINING RECOVERABLE HYDROCARBONS (f)	RESERVES AT END OF PREVIOUS YEAR (g)	CORRECTIONS (+,−) (h)	REVISIONS (+,−) (i)	EXTENSIONS (j)	REPORT YEAR PRODUCTION (k)	RESERVES AT END OF REPORT YEAR (l)
17. OIL (MBbls)												
18. GAS (MMcf)*												

3.6 RESERVOIR CODE:

1. RESERVOIR NAME | 2. DEPTH TO MIDPOINT | 3. WATER DEPTH | 4. DISCOVERY YEAR | 5. YEAR OF FIRST PRODUCTION | 6. LITHOLOGY | 7. TRAP TYPE

8. GEOLOGIC AGE | 9. GAS TYPE | 10. TYPE CALCULATION | 11. RECOVERY METHOD | 12. INDICATED ADDITIONAL RESERVES | 13. PRODUCTION STATUS | 14. REASON NONPRODUCING | 15. DATE OF LAST PRODUCTION | 16. ESTIMATED DATE OF FUTURE PRODUCTION

TYPE HYDROCARBON	TESTED (a)	UNTESTED (b)	ORIGINAL HYDROCARBONS IN-PLACE (c)	ORIGINAL RECOVERABLE HYDROCARBONS (d)	CUMULATIVE PRODUCTION (e)	REMAINING RECOVERABLE HYDROCARBONS (f)	RESERVES AT END OF PREVIOUS YEAR (g)	CORRECTIONS (+,−) (h)	REVISIONS (+,−) (i)	EXTENSIONS (j)	REPORT YEAR PRODUCTION (k)	RESERVES AT END OF REPORT YEAR (l)
17. OIL (MBbls)												
18. GAS (MMcf)*												

4.0 FIELD TOTAL DATA:

TYPE HYDROCARBON	ORIGINAL HYDROCARBONS IN-PLACE (a)	ORIGINAL RECOVERABLE HYDROCARBONS (b)	CUMULATIVE PRODUCTION (c)	REMAINING RECOVERABLE HYDROCARBONS (d)	RESERVES AT END OF PREVIOUS YEAR (e)	CORRECTIONS (+,−) (f)	REVISIONS (+,−) (g)	EXTENSIONS (h)	REPORT YEAR PRODUCTION (i)	RESERVES AT END OF REPORT YEAR (j)
4.1 OIL (MBbls)										
4.2 ASSOCIATED DISSOLVED GAS** (MMcf)										
4.3 NONASSOCIATED GAS** (MMcf)										

* REPORT COLUMNS c - f ON A WET BASIS; COLUMNS g - l ON A DRY BASIS.

** REPORT COLUMNS a - d ON A WET BASIS; COLUMNS e - j ON A DRY BASIS.

EIA – 23

SCHEDULE 4 – FOOTNOTES

Form Approved
O.M.B. No.

1.0 OPERATOR IDENTIFICATION DATA

1.1 OPERATOR I. D. CODE | 1.2 OPERATOR NAME | 1.3 REPORT DATE 1 2 3 1 | 1.4 ORIGINAL | 1.5 AMENDED | 1.6 PAGE ___ OF ___

SCHEDULE (a)	PAGE NUMBER (b)	LINE NUMBER (c)	COLUMN DESIGNATION (d)	SEQUENCE NUMBER (e)	FOOTNOTES (f)

[FR Doc. 78-4458 Filed 2-16-78; 8:45 am]

[3128-01]

Economic Regulatory Administration

[Ex Parte No. 308 (Sub-No. 1)]

INVESTIGATION OF COMMON CARRIER PIPELINES

Issuance of Proposed Decision and Order Concerning Procedures

AGENCY: Department of Energy, Economic Regulatory Administration.

ACTION: Notice of proposed decision and order.

SUMMARY: The Department of Energy (DOE) hereby gives notice of a Decision and Order which it proposes to issue. The DOE also gives notice of the opportunity to submit written comments with regard to the Proposed Decision and Order. The Decision and Order describes the procedures which the Economic Regulatory Administration (ERA) of the DOE proposes to follow in connection with its current Investigation of Common Carrier Pipelines (Ex Parte No. 308 (Sub-No. 1)).

In the Proposed Decision and Order, the DOE states that all requests made by interested parties during the course of the investigation which do not materially affect another party shall be submitted on an informal basis to the Office of Enforcement of the ERA. This procedure is intended to promote an expedient resolution of problems of an individual nature which arise during the course of the investigation. If a request of this type is denied by the Office of Enforcement, the firm which made the request may submit a Motion for Review to the Office of Administrative Review of the ERA.

The DOE proposes that all requests which would affect interested parties to a direct and substantial extent shall be made in writing on notice to all parties in the form of a Motion to the Office of Administrative Review.

The DOE also proposes to consider the Office of Enforcement a party to all Motions before the Office of Administrative Review.

In the Proposed Decision and Order, the DOE notes that only one matter concerning Ex Parte No. 308 (Sub-No. 1) is presently pending before the Office of Administrative Review. That matter concerns a September 30, 1977 Order issued by the Interstate Commerce Commission (ICC) which, prior to October 1, 1977 had directed this proceeding. In the September 30 Order, the ICC specified procedures for transmitting confidential discovery information to the Bureau of Competition of the Federal Trade Commission. The DOE proposes that Motions to Reconsider the ICC Order and comments should be submitted to the Office of Administrative Review within twenty days after the issuance of the Proposed Decision and Order in final form. Comments on Motions received after the issuance of the Decision and Order in final form may be submitted within twenty days after the date the Motion is filed.

Comments on the Proposed Decision and Order may be submitted to the Office of Administrative Review on or before March 6, 1978. Comments shall be submitted in triplicate to the following address: Melvin Goldstein, Director, Office of Administrative Review, Department of Energy, Room 8002, 2000 M Street NW., Washington, D.C. 20461.

FOR FURTHER INFORMATION, CONTACT:

George B. Breznay, Assistant Director, Office of Administrative Review, 202-254-9681.

Dated: February 10, 1978.

MELVIN GOLDSTEIN,
Director, Office of Administrative Review.

PROPOSED DECISION AND ORDER OF THE DEPARTMENT OF ENERGY

On February 24, 1976, the Interstate Commerce Commission (ICC) initiated an Investigation of Common Carrier Pipelines, pursuant to section 11 of the Clayton Act, 15 U.S.C. 21, and sections 12 and 13 of the Interstate Commerce Act, 49 U.S.C. 12, 13. The ICC investigation, designated as Ex Parte No. 308 (Sub-No. 1), was designed to permit an examination of possible violations of section 7 of the Clayton Act, 15 U.S.C. 18, by owners of petroleum pipelines. All common carrier pipelines subject to the provisions of Part I of the Interstate Commerce Act were made respondents in the proceeding.

Pursuant to the Department of Energy Organization Act, 42 U.S.C. 7101 et seq., as implemented by E.O. 12009, 42 FR 46267 (September 15, 1977), and DOE Delegation Order No. 0204-4, the existing proceedings under Ex Parte No. 308 (Sub-No. 1) were transferred to the Economic Regulatory Administration (ERA) of the DOE. On January 4, 1978, the Administrator of the ERA determined that the Office of Enforcement of the ERA would perform all functions previously performed in the proceeding by the ICC Bureau of Investigations and Enforcement. The Office of Administrative Review of the ERA was designated to perform all functions in connection with the proceeding that were previously performed by the members of the ICC or by an administrative law judge designated by the ICC to hear and decide any aspect of the matter. 43 FR 1659 (January 11, 1978). Accordingly, all records in this matter which were in the possession of the Bureau of Investigations and Enforcement of the ICC have now been transferred to the DOE Office of Enforcement. All records which were in the docket maintained by the Secretary of the ICC have now been transferred to the Office of Administrative Review. However, parties to this proceeding should be aware that correspondence which was addressed after October 1, 1977 to offices in the Department of Energy other than the ERA might not have been forwarded to the appropriate Office within the ERA. Any person who submitted this type of correspondence and wishes it to become part of the official files in this matter should immediately forward a copy of that correspondence to the appropriate office within the ERA.

PROCEDURES

In conducting proceedings under Ex Parte No. 308 (Sub-No. 1), the DOE will utilize the following procedures in connection with motions, petitions, and all other types of applications made by interested parties during the course of the pipeline investigation:

(i) All requests which seek relief that would not affect any other interested party[1] to a direct and substantial extent shall be submitted on an informal basis to the Office of Enforcement. The DOE reserves the right to make a final determination as to whether a particular request might affect an interested party to a direct and substantial extent. If the request is denied by the Office of Enforcement, a Motion for Review may be filed by the moving party with the Office of Administrative Review. A stay of the Office of Enforcement action may be requested upon a showing of good cause.

(ii) Any request which, if granted, would affect one or more interested parties to a direct and substantial extent shall be made in writing in the form of a Motion to the Office of Administrative Review. If such a request concerns an action taken by the Office of Enforcement, it may include a request for stay for good cause shown. All parties included on the Service List[2] shall be served by the applicant with copies of the Motion. The Office of Administrative Review may utilize other forms of notice, including publication of the request in the FEDERAL REGISTER, For purposes of soliciting comments by interested parties. Comments with regard to the Motion may be submitted to the Office of Administrative Review by interested parties within a period of twenty days after service of the Motion.

(iii) The Office of Enforcement of the ERA shall be considered a party to all proceedings before the Office of Administrative Review. Accordingly, that Office should be served with copies of all Motions and comments submitted to the Office of Administrative Review.

(iv) The provisions of 10 CFR, Part 205, Subparts A and M shall apply to all proceedings before the Office of Administrative Review except where inconsistent with the procedures outlined above. All Motions to the Office of Administrative Review shall include a discussion of relevant authorities in support of the relief sought.

PENDING PROCEEDING

The record in this proceeding indicates that the only pending matter for determination by the Office of Administrative Review is the issue whether certain information termed "confidential" by respondents in

[1] As used in these proceedings, "interested party" means the respondents in this proceeding and any individual or entity, or representative of any such individual or entity, with an interest sought to be protected under the Clayton Act or that portion of the Interstate Commerce Act referred to in Section 306 of the Department of Energy Organization Act.

[2] The current Service List in this proceeding is set forth in Appendix A.

this proceeding should be transmitted to another federal agency. On September 30, 1977 the ICC issued an Order which specified the procedures which would apply to the transmittal of discovery information of a confidential nature to the Bureau of Competition of the Federal Trade Commission. A number of firms have subsequently filed Motions for Reconsideration of the ICC Order. Copies of the September 30 order and those Motions are on file and available for public inspection between the hours of 1 p.m. and 5 p.m. in the Public Docket Room of the Office of Administrative Review at 2000 M Street NW., Washington, D.C. On January 6, 1978 the Office of Administrative Review issued a Decision and Order which stayed the provisions of the September 30 ICC Order regarding disclosure of confidential information to the Bureau of Competition, pending issuance of a determination regarding the Motions to Reconsider. 43 FR 1984 (January 13, 1978).

All interested parties which wish to submit Motions for Reconsideration of the September 30, 1977, ICC Order, or comments on those Motions, shall do so in accordance with Paragraphs (ii) through (iv) above within twenty days from the date of issuance of this Order. Any part may file its response or comments to the Motions within fifteen days after the motion is filed. Following the submission of that written material a hearing will be convened in accordance with 10 CFR 205.172 to afford parties an opportunity to present oral argument in connection with the position which they wish the DOE to adopt in the matter. At least ten days notice shall be provided of the date, time and place of the hearing. In view of the substantial number of individual parties participating in this proceeding, those parties that are advocating the same position might be required to consolidate their presentation at the hearing.

It is therefore ordered, That: The procedures described in the text of this Decision are hereby adopted by the Department of Energy. All parties to the Investigation of Common Carrier Pipelines (Ex Parte No. 308 (Sub-No. 1)) shall adhere to those procedures with respect to all motions, petitions and other types of applications submitted in this matter.

APPENDIX A

The following parties are presently included on the Service List in this proceeding. Corrections, deletions and additions to the Service List should be sent to the Office of Administrative Review.

J. Wallace Adair, 1730 Pennsylvania Avenue NW., Washington, D.C. 20006.
Mr. Bolivar C. Andrews and Mr. Jack D. Head, P.O. Box 2521, Houston, Tex. 77001.
Robert A. Archer, Enforcement Policy and Planning, Economic Regulatory Administration, Room 5128, 2000 M Street NW., Washington, D.C. 20461.
William J. Ayers, 2000 S. Post Oak Road, Houston, Tex. 77001.
John E. Bailey, P.O. Box 3725, Houston, Tex. 77001.
Albert R. Beal, Suite 400, 201 King of Prussia Road, Radnor, Pa. 19087.
Mr. James F. Bell, Jones, Day, Reavis & Pogue, 1100 Connecticut Avenue NW., Washington, D.C. 20036.
Paul D. Borghesani, 2800 W. Lexington Avenue, Elkhart, Ind. 46514.
David W. Brawn, U.S. Dept. of Justice, P.O. Box 7513, Washington, D.C. 20044.
F. Shaun Burns, 1701 Pennsylvania Avenue NW., Washington, D.C. 20006.
Robert L. Calhoun, 1025 Connecticut Avenue NW., Suite 500, Washington, D.C. 20036.
Tom Cator, New Senate Office Building, Room G 133, Washington, D.C. 20510.
E. Check, 3200 Ruan Center, 666 Grand Avenue, Des Moines, Iowa 50309.
Mr. H. T. Chilton, Colonial Pipeline Co., 3390 Peachtree Rd. NE., Lenox Towers, Atlanta, Ga. 30326.
Wesley S. Chused, 15 Court Square, Boston, Mass. 02108.
Mr. John M. Cleary, 914 Washington Building, 15th St. & New York Avenue NW., Washington, D.C. 20005.
W. S. Collingsworth, 805 National Bank of Tulsa Building, Tulsa, Okla. 74103.
Mr. Kevin F. Cunningham and Mr. John E. Bailey, P.O. Box 3725, Houston, Tex. 77001.
Harold L. Cushenberry, Jr., 425 13th Street NW., Suite 701, Washington, D.C. 20004.
Michael Q. Davis, 6 N. 3rd Street, Bergner Building, Harrisburg, Pa. 17108.
Harry L. Delung, 80 East Jackson Boulevard., Chicage, Ill. 60604.
Fred W. Drogula, 1700 Pennsylvania Avenue NW., Washington, D.C. 20006.
Robert M. Dubbs, 100 Motson Ford Road, Radnor, Pa. 19087.
Mr. J. Donald Durand, Association of Oil Pipe Lines, Suite 1208, 1725 K Street NW., Washington, D.C. 20006.
Dane J. Durham, P.O. Box 7880, San Francisco, Calif. 94120.
John S. Estill, Jr., National Bank of Tulsa Building, Tulsa, Okla. 74103.
Marion A. Fallwell, Legal Division, 517 FPB, Phillips Petroleum Co., Bartlesville, Okla. 74004.
Douglas Floyd, P.O. Box 7880, San Francisco, Calif. 94120.
James R. Fox, 1730 Pennsylvania Avenue NW., Washington, D.C. 20006.
Charles E. Graham, 3390 Peachtree Road NE., Atlanta, Ga. 30326.
David D. Green, P.O. Box 1808, Washington, D.C. 20013.
Donald F. Haas, 2223 Dodge Street, Omaha, Nebr. 68102.
E. W. Hack, Box 300, Tulsa, Okla. 74102.
Robert W. Hawkins, 1700 Pennsylvania Avenue NW., Washington, D.C. 20006.
C. J. Head, 11 Broadway, New York, N.Y. 10004.
Mr. Frank L. Heard, Jr., Exxon Pipeline Co. P.O. Box 2220, Houston, Tex. 77001.
John D. Heckert, 1100 Connecticut Avenue NW., Suite 600, Washington, D.C. 20036.
Dennis J. Helfman, 80 East Jackson Boulevard, Chicago, Ill. 60604.
Richard B. Herzog, Assistant Administrator for Enforcement, Economic Regulatory Administration, Room 5302, 2000 M Street NW., Washington, D.C. 20461.
Stanley Hoffman, 270 Park Avenue, New York, N.Y. 10017.
Thomas B. Hudson, Jr., 1701 Pennsylvania Avenue NW., Washington, D.C. 20006.
Harvey Huston, 80 East Jackson Boulevard, Chicago, Ill. 60604.
Mr. Owen M. Johnson, Jr., Bureau of Competition, Federal Trade Commission, Washington, D.C. 20580.
Robert A. Johnson, 1725 Midland Building, Cleveland, Ohio 44115.
Robert E. Jordon III, Tamer H. Pipkin, 1250 Connecticut Avenue NW., Washington, D.C. 20036.
Martin J. Keating, 200 East Randolph Drive, Room 2103-A, Chicago, Ill. 60601.
Mr. Andrew J. Kilcarr, Donovan, Leisure, Newton & Irvine, 1666 K Street NW., Washington, D.C. 20006.
Katherine R. Kile, P.O. Box 25861, Oklahoma City, Okla. 73125.
John S. Kingdon, 1730 Pennsylvania Avenue NW., Washington, D.C. 20006.
Rhett R. Krulla, 425 13th Street NW., Suite 701, Washington D.C. 20004.
Mr. William A. Kutzke, Department of Transportation, 400 Seventh Street NW., Washington, D.C. 20590.
Mr. John A. Ladner, Sun Pipe Line Co., 907 South Detroit Avenue, Tulsa, Okla. 74120.
John Lansdale, 21 Dupont Circle, Washington, D.C. 20036.
Mr. J. Furman Lewis, 539 South Main Street, Findlay, Ohio 45840.
Mr. Richard R. Linn, P.O. Box 2197, Houston, Tex. 77001.
Herbert J. Martin, Esq., 1100 Connecticut Avenue NW., Washington, D.C. 20036.
John P. Mathis, 1701 Pennsylvania Avenue NW., Washington, D.C. 20006.
Mr. Walter B. Mackenzie, Plantation Pipe Line Co., P.O. Box 18616, Atlanta, Ga. 30326.
Mr. Howard Mahany, Jr., American Hess Corp., 1185 Avenue of the Americas, New York, N.Y. 10036.
MAPCO Inc., 1800 South Baltimore Avenue, Tulsa, Oklahoma 74119.
Mr. James W. McCartney, Mr. Albert S. Tabor, Jr., 2100 First City National Bank Building, Houston, Tex. 77002.
Howard D. McCloud, P.O. Box 2650, Tulsa, Okla. 74101.
Charles W. McDermott, 2300 First National Bank Building, Denver, Colo. 80293.
Archie A. Messenger, 270 Park Avenue, New York, N.Y. 10017.
Mr. Rush Moody, Jr., Suite 1120, 1701 Pennsylvania Avenue NW., Washington, D.C. 20006.
John R. Morris, 620 Juliana Street, Parkersburg, W. Va. 26101.
James Mullen, Esq., Legal Division—517 FBP, Phillips Petroleum Co., Bartlesville, Okla. 74004.
T. M. Niblack, P.O. Box 18616, Atlanta, Ga. 30326.
Arthur M. Odum, 1000 Connecticut Avenue NW., Suite 406, Washington, D.C. 20036.
O. Gordon Ordham, The Gulf Co. Law Department, P.O. Box 3725, Houston, Tex. 77001.
James H. Pipkin, Jr., 1250 Connecticut Avenue, Washington, D.C. 20036.
Mr. Richard W. Pogue, Jones Day Reavis & Pogue, 1700 Union Commerce Building, Cleveland, Ohio 44115.
Roger Pool, 425 13th Street NW., Suite 701, Washington, D.C. 20004.
Keith E. Pugh, 1730 Pennsylvania Avenue NW., Washington, D.C. 20006.
Patrick Raher, 815 Connecticut Avenue NW., Washington, D.C. 20006.
Harry L. Reed, P.O. Box 2463, Houston, Tex.
C. Frank Reifsnyder, 815 Connecticut Avenue, Washington, D.C. 20006.
Clifton Peter Rose, Patton, Boggs & Blow, 1200 Seventeenth Street NW., Washington, D.C. 20036.
David A. Ross, 11 Broadway, New York, N.Y. 10004.
W. A. Schneeberg, Esq., P.O. Box 2159, Dallas, Tex. 75221.
David M. Schwartz, 1025 Connecticut Avenue NW., Suite 500, Washington, D.C. 20036.

John H. Seesel, FTC Room 402-1, 2120 L Street NW., Washington, D.C. 20037.
Tefft W. Smith, Kirland & Ellis, 200 East Randolph Drive, Chicago, Ill. 60601.
Dale W. Steffes, 863 Frostwood, Houston, Tex. 77024.
Clifford O. Stone, Jr., P.O. Box 1650, Tulsa, Okla. 74102.
J. Stanley Stroud, 888 17th Street NW., Washington, D.C. 20006.
Albert S. Tabor, Jr., 1933 First City National Bank Building, Houston, Tex. 77002.
W. Charles Tegeler, 1437 South Boulder Avenue, Tulsa, Okla. 74119.
Peter Tomao, Room 9710, Star Building, 11th and Pennsylvania Avenue NW., Department of Justice, Antitrust Division, Washington, D.C. 20530.
Jack Vickrey, Pennzoil Place North Tower, 700 Milam, Suite 2530, Houston, Tex. 77002.
Mr. Harvey E. Webb, Husky Oil Co., 600 South Cherry Street, Denver, Colo. 80222.
Ray B. Williamson, 2827 First National Bank Building, Dallas, Tex. 75202.
Frederic L. Wood, 914 Washington Building, Washington, D.C. 20005.

[FR Doc. 78-4353 Filed 2-16-78; 8:45 am]

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 857-7; OPP-50357]

ISSUANCE OF EXPERIMENTAL USE PERMITS

The Environmental Protection Agency (EPA) has issued experimental use permits to the following applicants. Such permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

No. 41326-EUP-1. Texas A & I University Citrus Center, Weslaco, Tex. 78596. This experimental use permit allows the use of 675 pounds of the insecticide Aldicarb on grapefruit to evaluate control of certain insect pests. A total of 90 acres is involved; the program is authorized only in the States of California, Florida, and Texas. The experimental use permit is effective from January 18, 1978 to January 18, 1979. A temporary tolerance for residues of the active ingredient in or on grapefruit has been established.

No. 476-EUP-80. Stauffer Chemical Co., Richmond, Calif. 94804. This experimental use permit allows the use of 338 pounds of the insecticide 0,0-Dimenthyl 0-(4-nitro-m-tolyl) phosphorothioate on alfalfa to evaluate control of various insects. A total of 389 acres is involved; the program is authorized only in the States of California, Idaho, Maryland, Michigan, Mississippi, Missouri, Montana, New Hampshire, New York, Ohio, Oregon, Pennsylvania, Utah, Vermont, Virginia, Washington, West Virginia, and Wyoming. The experimental use permit is effective from February 16, 1978 to February 16, 1979.

Interested parties wishing to review the experimental use permits are referred to Room E-315 Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M Street SW., Washington, D.C. 20460. It is suggested that such interested persons call 202-755-4851 before visiting the EPA Headquarters Office so that the appropriate permits may be made conveniently available for review purposes. These files will be available for inspection from 8:30 a.m. to 4 p.m. Monday through Friday.

(Section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136(a) et seq.).)

Dated: February 10, 1978.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

[FR Doc. 78-4460 Filed 2-16-78; 8:45 am]

[6560-01]

[FRL 857-8; OPP-50356]

ISSUANCE OF EXPERIMENTAL USE PERMITS

The Environmental Protection Agency (EPA) has issued experimental use permits to the following applicants. Such permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

No. 524-EUP-27. Monsanto Co., St. Louis, Mo. 63166. This experimental use permit allows the use of 720 pounds of the herbicide Glyphosate on citrus to evaluate control of various weed species. A total of 570 acres is involved; the program is authorized only in the States of Arizona, California, Florida, and Texas. The experimental use permit is effective from January 10, 1978 to January 10, 1979. Temporary tolerances for residues of the active ingredient in or on citrus fruits and the meat, fat, and meat by-products of cattle, goats, hogs, horses, poultry, and sheep and a food additive regulation for residues of the active ingredient in dried citrus pulp have been established.

No. 524-EUP-30. Monsanto Co., St. Louis, Mo. 63166. This experimental use permit allows the use of the herbicide Butachlor on rice and rice straw to evaluate control of most annual grasses and broadleaf weeds. A total of 1,020 acres is involved; the program is authorized only in the States of Arkansas, Mississippi, Louisiana, and Texas. The experimental use permit is effective from April 1, 1978 to April 1, 1979. A temporary tolerance for residues of the active ingredient in or on rice and rice straw and a food additive regulation for residues of the active ingredient in rice hulls and bran have been established.

Interested parties wishing to review the experimental use permits are referred to Room E-315 Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M Street SW., Washington, D.C. 20460. It is suggested that such interested persons call 202-755-4851 before visiting the EPA Headquarters Office so that the appropriate permits may be made conveniently available for review purposes. These files will be available for inspection from 8:30 a.m. to 4 p.m. Monday through Friday.

(Section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751, 7 U.S.C. 136(a) et seq.).)

Dated: February 10, 1978.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

[FR Doc. 78-4461 Filed 2-16-78; 8:45 am]

[6560-01]

[FRL 857-3; OPP-33000/531]

RECEIPT OF APPLICATION FOR PESTICIDE REGISTRATION

Data to be Considered in Support of Applications

On November 19, 1973, the Environmental Protection Agency (EPA) published in the FEDERAL REGISTER (39 FR 31862) its interim policy with respect to the administration of section 3(c)(1)(D) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended ("Interim Policy Statement"). On January 22, 1976, EPA published in the FEDERAL REGISTER a document entitled "Registration of a Pesticide Product—Consideration of Data by the Administrator in Support of an Application" (41 FR 3339). This document described the changes in the Agency's procedures for implementing section 3(c)(1)(D) of FIFRA, as set out in the Interim Policy Statement which were effected by the enactment of the amendments to FIFRA on November 28, 1975 (Pub. L. 94-140), and the regulations governing the registration and re-registration of pesticides which became effective on August 4, 1975 (40 CFR Part 162).

Pursuant to the procedures set forth in these FEDERAL REGISTER documents, EPA hereby gives notice of the applications for pesticide registration listed below. In some case these applications have recently been received; in other cases, applications have been amended by the submission of additional supporting data, the election of a new method of support, or the submission of new "offer to pay" statements.

In the case of all applications, the labeling furnished by the applicant for the product will be available for inspection at the Environmental Protection Agency, Room 209, East Tower, 401 M Street SW., Washington D.C. 20460. In the case of applications subject to the section 3 regulations which utilize either the 2(a) or 2(b) method of support specified in the Interim Policy Statement, all data citations submitted or referenced by the applicant in support of the application will be made available for inspection at the above address. This information (proposed labeling and, where applicable, data citations) will also be supplied by mail, upon request. However, such a

request should be made only when circumstances make it inconvenient for the inspection to be made at the Agency offices.

Any person who (a) is or has been an applicant, (b) believes that data he developed and submitted to EPA on or after January 1, 1970, are being used to support an application described in this notice, (c) desires to assert a claim under section 3(c)(1)(D) for such use of his data and wishes to preserve his right to have the Administrator determine the amount of reasonable compensation to which he is entitled for such use of the data, or (d) wishes to assert confidential status under section 10 for his data, must notify the Administrator and the applicant named in the notice in the FEDERAL REGISTER of his claim by certified mail. Notification to the Administrator should be addressed to the Product Control Branch, Registration Division (WH-567), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street SW., Washington D.C. 20460. Every such claimant must include, at a minimum, the information listed in the Interim Policy Statement of November 19, 1973.

Specific questions concerning applications made to the Agency should be addressed to the designated Product Manager (PM), Registration Division (WH-567), Office of Pesticide Programs, at the above address, or by telephone as follows:

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PM 15, 16, and 17—202-426-9425.
PM 21 and 22—202-426-2454.
PM 23—202-755-1397.
PM 24—202-755-2196.
PM 25—202-426-2632.
PM 31—202-426-2635.
PM 32—202-426-9486.
PM 33—202-755-9041.
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Dated: February 10, 1978.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

APPLICATIONS RECEIVED (OPP—33000/531)

EPA File Symbol 352-GIT, E. I. DuPont De Nemours & Co. (Inc.), Biochemicals Department, Wilmington, Del. 19878. Velpar Gridball Brush Killer. Active Ingredients: 3cyclohexyl-6(dimethylamino)lmethyll,3,-5triazine2,4(1H, 3H)dione 10%. Method of Support: Application proceeds under 2(b) of interim policy. PM24

EPA Reg. No. 524-308. Monsanto Co., 800 N. Lindbergh Blvd., St. Louis, Mo. 63166. Roundup. Active Ingredients: Isopropylamine salt of Glyphosate 41.0%. Method of Support: Application proceeds under 2(b) of interim policy. New Crop. PM25

EPA File Symbol 2393-GUT. Hopkins Agricultural Chemical Co., Box 7532, Madison, Wis. 53707. Seed Potato Storage & Handling Equipment Disinfectant. Active Ingredients: Methyldodecylbenzyl trimethyl ammonium chloride 80%; methyldodecylxylylene bis (trimethyl ammonium chloride) 20%; 10.0%. Method of support: Application proceeds under 2)b) of interim policy. PM31

EPA Reg. No. 3125-314. Chemagro Agricultural Divsion, Mobay Chemical Corp., Box 4913, Kansas City, Mo. 64120. Sencor 4 Flowable Herbicide. Active Ingredients: 4Amino6(1,1-dimethylethyl) 3(methylthio) 1,2,4-triazin-5(4H)-one 41%. Method of Support: Application proceeds under 2(a) of interim policy. PM25

EPA File Symbol 5204-AR. M&T Chemicals, Inc., Subsidiary of American Can Co., P.O. Box 1104, Rahway, N.J. 07065. Biomet 430(TBTF Dispersion). Active ingredients: Tributyltin fluoride 50%. Method of support: Application proceeds under 2(b) of interim policy. PM24

EPA File Symbol 5736-AG. DuBois Chimicals, Division of Chemed Corp., DuBois Tower, Cincinnati, Ohio 45202. Low Foam Water Treatment Microbiocide for Building and Industrial Cooling Towers. Active Ingredients: Dioctyl dimethyl ammonium chloride 20.0%; Ethyl alcohol 4.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM3l

EPA File Symbol 10011-L. Whiteworth, Inc., Gardena, Calif. 90248. Whiteworth Germicidal Solution Brand of Benzalkonium Chloride. Active Ingredients: Alkyl (C12—61%, C14—23%, C16—11%, C18—5%) Dimethyl Benzyl Ammonium Chlorides 0.133%. Method of support: Application proceeds under 2(b) of interim policy. PM31

EPA File Symbol 11082-L. Long Chemical, 2615 Southwest Drive, Los Angeles, Calif. 90043. Hospital Strength Disinfectant. Active ingredients: Octyl Decyl Dimethyl Ammonium Chloride 3.750%, Dioctyl Dimethyl Ammonium Chloride 1.875%, Didecyl dimethyl Ammonium Chloride 1.875%, Alkyl (C14, 50%; C12, 40%; C16, 10%), Benzyl Dimethyl ammonium chloride 5,000%, Tetrasodium Ethylenediamine tetracetate 3.420%, Isopropyl Alcohol 3.000%, Ethyl Alcohol 1.000%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA Reg. No. 11265-12. Seymour Chemical Associates, 1609 Arbor Avenue, Highland Park, Ill. 60035. Nylate-10. Active Ingredients: Copper-8-quinolinolate 10.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM22

EPA Reg. No. 11598-29. Connecticut Aerosols, Inc., 85 Furniture Row, Milford, Conn. 06460. Connecticut African violet and house Plant Insect Spray. Active Ingredients: Pyrethrins 0.056%, Pine Oil 0.900%, Petroleum distillate 0.406%. Method of Support: Application poceeds under 2(b) of interim policy. PM17

EPA File Symbol 12042-RR. Verax Chemical Co., P.O. Box 803, Bothell, Wash. 98011 Verax Hex. Active Ingredients: Octyl decyl dimethyl ammonium chloride 1.250%, Dioctyl dimethyl ammonium chloride 0.625%, Didecyl dimethyl ammonium chloride 0.625%, Alkyl amino betaine 1.000%, Hydrogen chloride 8.000%. Method of Support: Application proceeds under 2(b) of interim policy. PM32

EPA File Symbol 12798-R. Quaker Chemical Co., Columbia S.C. 29202. Quaker Disinfectant-Sanitizer Fungicide Deodorizer. Active ingredients: Didecyl dimethyl ammonium chloride 7.5%, Isopropanol 3.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA File Symbol 32903-L. Sanitizer Softener Systems, Inc., 210 Bell St., Chagrin Falls Ohio 44022. Sani System Softener Sanitizer. Active Ingredients: Octyl decyl dimethyl ammonium chloride 15.0%, Dioctyl dimethyl ammonium chloride 7.5%, Didecyl dimethyl ammonium chloride 7.5%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA File Symbol 34284-A. Mid America Chemical, Inc., 203 S. Compress, Oklahoma City, Okla. 73125. X-IT Algae Concentrate. Actie Ingredients: Poly[oxyethylene (dimethyliminio) ethylene-(dimethyliminio) ethylene dichloride] 40.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 34284-L. Mid America Chemical, Inc, Tower-Cide NF. Active Ingredients:
Poly[oxyethylene(dimethyliminio) ethylene-(dimethyliminio) ethylene dichloride] 10.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 40638-R. CTI-Nuclear, Inc., 4955 Bannock St., Denver, Colo. 80216. AQUASIV 13010 SILVER ZEOLITE. Active Ingredients: Silver .85%. Method of Support: Application proceeds under 2(a) of interim policy. PM33

EPA File Symbol 41244-R. The Ranchick Corp., 1766 Empire Blvd., Webster, N.Y. 14580. Sunrise 15. Active Ingredients: Sodium Hypochlorite 12.5%. Method of Support; Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 41245-R. Sheldon's Allied Building Cnt., 16385 Brewer Road, Dundee, Miss. 48131. Shel-Chlor. Active Ingredients: Sodium Hypochlorite 12.5%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 41246-E. Bay Chemical & Supply Co., P.O. Box 1581, Corpus Christi, Tex. 78403. Baycide 302. Active Ingredients: Poly[oxyethylene (dimethyliminio) ethylene-(dimethyliminio) ethylene dichloride] 20.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 41256-E. Texas Bzzzz Chemical Co., 538 N. Obion, Houston, Tex. 77022. Bzzzz Disinfectant Sanitizer Fungicide Deodorizer. Active Ingredients: Didecyl dimethyl ammonium chloride 7.5%, Isopropanol 3.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA File Symbol 35969-T. L.A. Lux Co., 2285 Scranton Road, Cleveland, Ohio 44113. Algaecide 250. Active Ingredients: Disodium cyanodithiomidocarbonate 10.5%, Potassium N-Methyldithiocarbamate 14.5%. Method of Support: Appliction proceeds under 2(b) of interim policy. PM33

[FR Doc. 78-4462 Filed 2-16-78; 8:45 am]

[6560-01]

[FRL 857-4; OPP-33000/529]

RECEIPT OF APPLICATION FOR PESTICIDE REGISTRATION

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Dated: February 10, 1978.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

APPLICATIONS RECEIVED (OPP-33000/529)

EPA Reg. No. 100-439. Ciba-Geigy Corp., Agricultural Division, Greensboro, N.C. 27409. Aatrex 80W. Active Ingredients: Atrazine: 2-chloro-4-ethylamino-6-isopropylamino-s-triazine 76%; Related compounds 4%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Revised offer to pay statement submitted. PM25

EPA Reg. No. 100-497. Ciba-Geigy Corp. Aatrex 4L. Active Ingredients: Atrazine: 2-chloro-4 ethylamino-6-isopropylamino-s-triazine 40.8%; Related compounds 2.2%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Revised offer to pay statement submitted. PM25

EPA Reg. No. 100-535. Ciba-Geigy Corp. Aatrex 4LC. Active Ingredients: Atrazine: 2-chloro-4-ethylamino-6-isopropylamino-s-triazine 40.8%; Related Compounds 2.2%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Revised offer to pay statement submitted. PM25

EPA Reg. No. 100-585. Ciba-Geigy Corp. Aatrex Nine-0. Active Ingredients: Atrazine: 2-chloro-4-ethylamino-6-isopropylamino-s-triazine 85.5%; Related Compounds 4.5%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Revised offer to pay statement submitted. PM25

EPA File Symbol 239-EUAN. Chevron Chemical Co., Ortho Division, San Francisco, Calif. 94119. Ortho Paraquat concentrate 3. Active Ingredients: Paraquat dichloride (1,1'-dimethyl-4,4'-bipyridinium dichloride) 43.5%. Application proceeds under 2(b) of interim policy. Republished: Revised offer to pay statement submitted. PM25

EPA Reg. No. 352-342. E. I. duPont de Nemours & Co. (Inc.), Biochemicals Department, 6054 DuPont Bldg., Wilmington, Del. 19898. Lannate Insectiide. Active Ingredients: S-methyl N-[(methylcarbamoyl)oxy]thioacetimidate 90%. Application proceeds under 2(b) of interim policy. Added pests. PM12

EPA Reg. No. 352-370. E. I. duPont de Nemours & Co. (Inc.), Biochemicals Department, 6054 DuPont Bldg., Wilmington, Del. 19898. Lannate L Insecticide. Active Ingredients: S-methyl N-[(methylcarbamoyl)oxy]thioacetimidate 24%. Method of Support: Application proceeds under 2(b) of interim policy. Added pests. PM12

EPA Reg. No. 524-308 Monsanto Agricultural Products Co., 800 N. Lindbergh Blvd., St. Louis, Mo. 63166. Roundup. Active Ingredients: Isopropylamine salt of Clyphosate 41.0%. Method of Support: Application proceeds under 2(b) of interim policy. New use PM25

EPA File Symbol 677-GGI. Diamond Shamrock Corp., Agricultural Chemicals Division, 1100 Superior Ave., Cleveland, Ohio 44114. Logo Diamond Shamrock 90% Dimethyl T. Active Ingredients: Dimethyl tetrachloroterephthalate 90.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM23

EPA Reg. No. 778-36. Miller-Morton Co., P.O. Box 6235, Richmond, Va. 23230. Sergeant's Sentry IV Flea and Tick Collar. Active Ingredients: Naled (1,2-dibromo-2,2-dichloroethyl dimethyl phosphate) 10%. Method of Support: Application proceeds under 2(a) of interim policy. Change in method of support. PM16

EPA Reg. No. 1021-657. McLaughlin Gormley King Co., 8810 Tenth Ave. NE., Minneapolis, Minn. 55427. Pyrocide Pressurized Water-Base Plant and Pet Spray 6079. Active Ingredients: Pyrethrins 2.334%; Petroleum distillate 9.336 %. Method of Support: Application proceeds under 2(a) of interim policy. PM17

EPA File Symbol 4482-RL. Epic Chemicals, Inc., Brooklyn, N.Y. Dical Disinfectant Sanitizer Fungicide Deodorizer. Active Ingredients: Didecyl dimethyl ammonium chloride 7.5% Isopropanol 3.0%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Revised offer to pay statement submitted. PM31

EPA File Symbol 9198-GI. Free Flow Fertilizer, P.O. Box 119, Maumee, Ohio 43537. Fortify Lawn Fungicide. Active Ingredi-

ents: Chlorothalonil (Tetrachloroisophthalonitrile) 2.50%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Revised offer to pay statement. PM21

EPA File Symbol 11082-U. Long Chemical, 2615 Southwest Drive, Los Angeles, Calif. 90043. Industrial Cleaner and Disinfectant. Active Ingredients: Octyl Decyl Dimethyl Ammonium Chloride 0.950%; Dioctyl Dimethyl Ammonium Chloride 0.475%; Didecyl Dimethyl Ammonium Chloride 0.475%; Tetrasodium Ethylenediamine Tetraacetate 1.000%; Trisodium Phosphate 2.000%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA File Symbol: 12353-U. Omega Chemical Co., 6935 West 62d St., Chicago, Ill. 60638. SAN-202. Active Ingredients: N-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chloride 0.8; n-Alkyl (68% C12, 33% C14) dimethyl ethylbenzyl ammonium chlorides 0.8%; Sodium Metasilicate Anhydrous 2.4%; Tetrasodium ethylenediamine tetraacetate 1.0%. Method of Support: Application proceeds under 2(b) of interim policy. New offer to pay statement. PM33

EPA File Symbol 34284-U. Mid America Chemical, Inc., 215 South Compress St., Oklahoma City, Okla. 73125. X-It-Algae. Active Ingredients: Poly[oxyethylene (dimethyliminio) ethylene-(dimethyliminio) ethylene dichloride] 10.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 39398-L. Sumitomo Chemical America, Inc., 1330 Dillion Heights Ave., Baltimore, Md. 21228. Insecticide Aerosol d-Phenothrin 10%. Active Ingredients: 3-phenoxybenzyl)d-cis and trans 2,2-dimethyl-3-(2 methylpropeny) cyclopropanecarboxylate 10%. Method of Support: Application proceeds under 2(b) of interim policy. PM17

EPA File Symbol 40718-R. NTC Chemical Co., P.O. Box 52112, Lafayette, La. 70505. NTC Microbiocide 120. Active Ingredients: Poly[oxyethyline (dimethyliminio) ethylene-(dimethyliminio) ethylene dichloride] 10.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 41225-R. American Pool, Inc., 8743 Southwest 129 St., P.O. Box 561074, Miami, Fla. 33156. Pool Treat. Active Ingredients: Sodium Hypochlorite 9.2%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 41226-R. Davis Hardware, 525 N. Hwy. 19, New Port Richey, Fla. 33552. Liqui-Brite. Active Ingredients: Sodium Hypochlorite 9.2%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

CORRECTION

EPA File Symbol 2224-LG. Mobil Chemical, P.O. Box 26683, Richmond, Va. 23261. Mobil Modown Herbicide 4 Flowable. Active Ingredients: Bifonex 44 percent. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Amended label. PM 25 (Application is withdrawn from publication) (42 FR 55845, October 19, 1977)

[FR Doc. 78-4463 Filed 2-16-78; 8:45 am]

[6560-01]

[FRL 857-5; OPP-33000/530]

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Dated: February 10, 1978.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

APPLICATIONS RECEIVED (OPP-33000/530)

EPA Reg. No. 279-1500. FMC Corp., Ag. Chem. Div., 2000 Market St., Philadelphia, Pa. 19103. Methyl Parathion 4 Miscible. Active Ingredients: 45.1% Methyl Parathion, 47.0% Xylene base aromatic petroleum solvent. Method of Support: Application proceeds under 2(b) of interim policy. Changed use pattern. PM12

EPA File Symbol 352-GIA. E. I. du Pont de Nemours & Co. (Inc.), Legal Dept., 07045, Attn: M. B. Lore, Wilmington, Del. 19898. Demosan Fungicide Technical. Active Ingredients: Chloroneb (1,4-dichloro-2,5-dimethoxybenzene) 88%. Method of Support: Application proceeds under 2(b) of interim policy. PM21

EPA File Symbol 506-RGA. D. E. Linck Co., Div. Walco Linck Corp., Routes 3 and 46, Clifton, N.J. 07015. Antcheck Ant Trap.

Active Ingredients: 2-(1-Methylethoxy) Phenol Methylcarbamate .250%. Method of Support: Application proceeds under 2(b) of interim policy. PM12

EPA File Symbol 506-RGT. D. E. Linck Co. E-Z Ant Trap. Active Ingredients: 2-(1-Methylethoxy) Phenol Methylcarbamate .250%. Method of Support: Application proceeds under 2(b) of interim policy. PM12

EPA Reg. No. 1109-25. Cities Service Co., Minerals Group, P.O. Box 50360, 3445 Peachtree Rd., NE., Atlanta, Ga. 30302. Citcop 4E. Active Ingredients: Copper salts of fatty and rosin acids 48%; (copper as metallic) 4%. Method of Support: Application proceeds under 2(b) of interim policy. Added uses. PM22

EPA Reg. No. 1109-28. Cities Service Co. Citcop 6E. Active Ingredients: Copper salts of fatty and rosin acids 65%; (Copper as metallic 5.75%). Method of Support: Application proceeds under 2(b) of interim policy. PM22

EPA File Symbol 1553-RNU. Momar Incorporated, 1830 Ellsworth Drive, NW., Atlanta, Ga. 30318. Aquatrol A-100. Active Ingredients: n-Alkyl (50% C14, 40% C12, 10% C16) dimethyl benzyl ammonium chloride 10%. Method of Support: Applicaton proceeds under 2(b) of interim policy. PM31

EPA Reg. No. 8848-11. Safeguard Chemical Corp., 789 East 144 Street, Bronx, N.Y. 10454. Ultrapine. Active Ingredients: Pine oil 50%; Soap 10%; Isopropyl Alcohol 10%. Method of Support: Application proceeds under 2(b) of interim policy. PM32

EPA File Symbol 21713-U. Durand Cooperatives, P.O. Box 160, Durand, Wis. 54736. 9-23-30 Systemic-D. Active Ingredients: 0,0-Diethyl S-(2-(ethylthiol) ethyl) phosphorodithioate 0.5%. Method of Support: Application proceeds under 2(b) of interim policy. PM15

EPA File Symbol 21779-G. California Pool Service, Inc., 8802 Daffodil St., Houston, Tex. 77042. Bio-Chloralgaecide. Active Ingredients: Poly[oxyethylene (dimethyliminio) ethylene-(dimethyliminio) ethylene dichloride] 60.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 34859-G. Wayne Chemical Inc., 3032 S. Calhoun St., Fort Wayne, Ind. 46807. WC-150 Sanitizer. Active Ingredients: Sodium Hypochlorite 12.5%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 39294-R. Universal Chemical Co., 224 Main St., DuPont, Pa. 19641. Uni-Chlor. Active Ingredients: Sodium Hypochlorite 12.5%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 40639-R. Midwest Chlorine Corp., Kingsbury Industrial Park, Kingsbury, (La Porte) Ind. 46350. Chlorine. Active Ingredients: 100% Chlorine. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 40945-R. Kemp Chemical, Inc., P.O. Box 8250, Longview, Tex. 75602. Chlorine. Active Ingredients: 99.5% Chlorine. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 40959-E. Chemical Solvent Co., P.O. Box 487, Birmingham, Ala. 35201. Csco-Cide 220. Active Ingredients: Poly[oxyethylene (dimethyliminio) ethylene dimethyliminio ethylene dichloride] 20.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 40959-G. Chemical Solvent Co. Csco-Swim-Cide. Active Ingredients: Poly[oxyethylene (dimethyliminio) ethylene (dimethyliminio) ethylene dichloride] 15.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 40959-U. Chemical Solvent Co. Csco-Cide 215. Active Ingredients: Poly[oxyethylene (dimethyliminio) ethylene (dimethyliminio) ethylene dichloride] 15.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 40959-L. Chemical Solvent Co., P.O. Box 487, Birmingham, Ala. 35201. Csco-Cide 210. Active Ingredients: Poly[oxyethylene (dimethyliminio) ethylene (dimethyliminio) ethylene dichloride] 10.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 41209-R. South Texas Chlorine, Inc., 705 W. Jackson, Harlingen, Tex. 78550. Liquid Chlorine. Active Ingredients: 99.7% Chlorine. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 41242-R. Alden Pools, Inc., 12890 Broadway, Alden, N.Y. 14004. Aqua Brite. Active Ingredients: Sodium Hypochlorite 12.5%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 41243-R. Carter Page, Inc., 2771 West Heneritta Rd., Rochester, N.Y. 14623. Chlor-A-Gard. Active Ingredients: Sodium Hypochlorite 12.5%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 41246-R. Ray Chemical & Supply Co., P.O. Box 1581, Corpus Christi, Tex. 78403. Baycide 301. Active Ingredients: Poly[oxyethylene (dimethyliminio) ethylene (dimethyliminio) ethylene dichloride] 10.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

[FR Doc. 78-4464 Filed 2-16-78; 8:45 am]

[6560-01]

[ERL 857-6; OPP—33000/532 and 533]

RECEIPT OF APPLICATION FOR PESTICIDE REGISTRATION

Data to be Considered in Support of Applications

On November 19, 1973, the Environmental Protection Agency (EPA) published in the FEDERAL REGISTER (39 FR 21862) its interim policy with respect to the administration of section 3(c)(1)(D) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended ["Interim Policy Statement"]. On January 22, 1976, EPA published in the FEDERAL REGISTER a document entitled "Registration of a Pesticide Product—Consideration of Data by the Administrator in Support of an Application" [41 FR 3339]. This document described the changes in the Agency's procedures for implementing section 3(c)(1)(D) of FIFRA, as set out in the Interim Policy Statement which were effected by the enactment of the amendments to FIFRA on November 28, 1975 [Pub. L. 94-140], and the regulations governing the registration and re-registration of pesticides which became effective on August 4, 1975 [40 CFR Part 162].

Pursuant to the procedures set forth in these FEDERAL REGISTER documents, EPA hereby gives notice of the applications for pesticide registration listed below. In some cases these applications have recently been received; in other cases, applications have been amended by the submission of additional supporting data, the election of a new method of support, or the submission of new "offer to pay" statements.

In the case of all applications, the labeling furnished by the applicant for the product will be available for inspection at the Environmental Protection Agency, Room 209, East Tower, 401 M Street SW., Washington, D.C. 20460. In the case of applications subject to the section 3 regulations which utilize either the 2(a) or 2(b) method of support specified in the Interim Policy Statement, all data citations submitted or referenced by the applicant in support of the application will be made available for inspection at the above address. This information (proposed labeling and, where applicable, data citations) will also be supplied by mail, upon request. However, such a request should be made only when circumstances make it inconvenient for the inspection to be made at the Agency offices.

Any person who (a) is or has been an applicant, (b) believes that data he developed and submitted to EPA on or after January 1, 1970, are being used to support an application described in this notice, (c) desires to assert a claim under section 3(c)(1)(D) for such use of his data and wishes to preserve his right to have the Administrator determine the amount of reasonable compensation to which he is entitled for such use of the data, or (d) wishes to assert confidential status under Section 10 for his data, must notify the Administrator and the applicant named in the notice in the FEDERAL REGISTER of his claim by certified mail. Notification to the Administrator should be addressed to the Product Control Branch, Registration Division (WH-567), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street S.W., Washington, D.C. 20460. Every such claimant must include, at a minimum, the information listed in the Interim Policy Statement of November 19, 1973.

Specific questions concerning applications made to the Agency should be addressed to the designated Product Manager (PM), Registration Division (WH-567), Office of Pesticide Programs, at the above address, or by telephone as follows:

PM 11, 12, and 13—202-755-9315.
PM 15, 16, and 17—202-426-9425.
PM 21 and 22—202-426-2454.
PM 23—202-755-1397.
PM 24—202-755-2196.
PM 25—202-426-2632.
PM 31—202-426-2635.
PM 32—202-426-9486.
PM 33—202-755-9041.
PM 34—202-426-9490.

The Interim Policy Statement requires that claims for compensation be filed by April 18, 1978. EPA will not delay any registration pending the assertion of claims for compensation or the determination of reasonable compensation. Inquiries and assertions that data relied upon are subject to protection under section 10 of FIFRA, as amended, should be made by March 20, 1978. Registration will be delayed pending resolution of section 10 claims.

Dated: February 10, 1978.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

APPLICATIONS RECEIVED (OPP—33000/532)

EPA Reg. No. 100-523. Ciba-Geigy, Agricultural Division, P.O. Box 11422, Greensboro, N.C. 27409. Tolban 4E Herbicide. Active Ingredients: Profluralin: N(cyclopropylmethyl) - a,a,a-trifluoro-2,6-dinitro-N-propyl-p-toluidine 43.6%; Related compounds 1.9%. Method of Support: Application proceeds under 2(a) of interim policy. Label Revisions. PM24

EPA Reg. No. 352-270. E. I. du. Pont de Nemours & Co. (Inc.) Biochemicals Department, Wilmington, Del. Lorox Weed Killer. Active Ingredients: Linuron [3-(3,4-dichlorophenyl) - 1 - methoxy-1-methylurea] 50%. Method of Support: Application proceeds under 2(b) of interim policy. Amendment. PM25

EPA Reg. No. 352-270. E.I. du Pont de Nemours & Co. (Inc.) Lorox Weed Killer. Active Ingredients: Linuran [3-(3,4-dichlorophenyl)-1-methoxy-1-methylureal] 50%. Method of Support: Application proceeds under 2(b) of interim policy. Amendment. PM25

EPA Reg. No. 352-375. E.I. du Pont de Nemours & Co. (Inc.) Lexone Metribuzin Weed Killer. Active Ingredients: 4-Amino-6-(1,1-dimenthylethyl)-3-(methylthio)-1,2,-4-triazin-5(4H)-one 50%. Method of Support: Application proceeds under 2(b) of interim policy. Amendment. PM25

EPA File Symbol 475-ENI. Boyle-Midway, South Ave. & Hale St., Cranford, N.J. 07016. Intensified Sani-Flush Toilet Bowl Cleaner. Active Ingredients: Sodium bisulfate 70.0%. Method of Support: Application proceeds under 2(a) of interim policy. PM34

EPA Reg. No. 538-146. ProTurf Division, O M Scott & Sons, Marysville, Ohio 43040. Progrow (TM) Brand Ornamental Herbicide I. Active Ingredients: oxadiazon [2-tert-butyl-4-(2,4-dichloro - 5 - isopropoxyphenyl)-delta- 2- 1,3,4-oxadi- azolin-5-one] 4.00%. Method of Support: Application proceeds under 2(b) of interim policy. Added uses. PM24

EPA Reg. No. 538-147. ProTurf Division, O M Scott & Sons. Progrow (TM) Brand Ornamental Herbicide III. Active Ingredients: oxadiazon [2-tert-butyl-4-(2,4-dichloro-5-isopropoxyphenyl)-delta-2-1,3,4-oxadiazolin-5-one] 8.00%. Method of Support: Application proceeds under 2(b) of interim policy. Added uses. PM24

EPA File Symbol 649-LA. Para Industries, Inc., P.O. Box 1888, Paterson, N.J. 07509. Bacto-Stat NF. Active Ingredients: Poly[oxyethylene(dimethyliminio)ethylene-(dimethyliminio)ethylene dichloride] 10.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 649-LT. Para Industries, Inc. Bacto-Stat Super NF. Active Ingredients: Poly[oxyethylene(dimethyliminio)-ethylene-(dimethyliminio)ethylene dichloride] 40.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 649-LI. Para Industries, Inc. Bacto-Stat XNF. Active Ingredients: Poly[oxyethylene(dimethyliminio)ethylene-(dimethyliminio)ethylene dichloride] 20.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA Reg. No. 655-536. Prentiss Drug & Chemical Co., Inc., New York, N.Y. 10001. Prentox D.D.V.P. Five. Active Ingredients: 2,2-dichlorovinyl dimethyl phosphate 4.65%; Related Compounds 0.35%; Petroleum Distillates 15.00%. Method of Support: Application proceeds under 2(b) of interim policy. Added Use. PM13

EPA Reg. No. 655-536. Prentiss Drug & Chemical Co., Inc. Prentox D.D.V.P. Five. Active Ingredients: 2,2-dichlorovinyl dimethyl phosphate 4.65%; Related Compounds 0.35%; Petroleum Distillates 15.00%. Method of Support: Application proceeds under 2(b) of interim policy. Added use. PM13

EPA Reg. No. 1706-104. Nalco Chemical Co., 6216 W. 66 Pl., Chicago, Ill. 60638. Nalkil 2727 Liquid With Endrift Weed Killer. Active Ingredients: Petroleum Oil 66%; Bromacil (5-bromo-3-sec-butyl-6-methyluracil) 5.78%; Pentachlorophenol 4.71%; 2,3,4,6 tetrachlorophenol 0.64%. Method of Support: Application proceeds under 2(b) of interim policy. PM24

EPA Reg. No. 1706-105. Nalco Chemical Co. Nalkil 2728 Liquid With Endrift Weed Killer. Active Ingredients: Petroleum Oil 59.69%; 2,4-Dichlorophenoxyacetic acid isooctyl ester* 6.46%; Bromacil (5-bromo-3-sec-butyl-6-methyluracil) 5.66%; Pentachlorophenol 4.61%; 2,3,4,6 tetrachlorophenol 0.63%. Method of Support: Application proceeds under 2(b) of interim policy. PM24

EPA Reg. No. 1706-107. Nalco Chemical Co., 6216 W. 66 Pl., Chicago, Ill. 60638. Nalkil 2726 Liquid With Endrift Weed Killer. Active Ingredients: Petroleum Oil 57.28%; 2,4-Dichlorophenoxyacetic acid isooctyl ester 8.65%; Bromacil (5-bromo-3-sec-butyl-6-methyluracil) 4.79%; Pentachlorophenol 6.18%; 2,3,4,6 tetrachlorophenol 0.85%. Method of Support: Application proceeds under 2(b) of interim policy. PM24

EPA Reg. No. 1769-174. National Chemsearch, 2727 Chemsearch Blvd., Irving, Tex. 75062. Watrol. Active Ingredients: Diquat Dibromide (6,7-dihydrodipyrido(1,2-a:2'1'c) Pyrazinediium dibromide 1.85%. Method of Support: Application proceeds under 2(b) of interim policy. PM24

EPA Reg. No. 1769-203. National Chemsearch. Skychoda. Active Ingredients: Aromatic Petroleum Derivative Solvent 59%; Naled: 1,2-d, bromo-2,2-dichloroethyl dimethyl phosphate 35%. Method of Support: Application proceeds under 2(a) of interim policy. PM16

EPA Reg. No. 3125-111. Chemagro Agricultural Division, Mobay Chemical Corp., Box 4913, Kansas City, Mo. 64120. Metasystox-r. Active Ingredients: S-[2-(Ethylsulfinyl)ethyl]0,0-dimethyl phosphorothioate 25%; Aromatic Petroleum Distillate 14%. Method of Support: Application proceeds under 2(b) of interim policy. PM16

EPA Reg. No. 4090-3. Gulf Oil Chemicals Co., Div. of Gulf Oil Corp., Merrian, Kans. 66201. Carbyne Wild Oat Herbicide. Active Ingredients: Barban 4-chloro-2-butynyl m-chloro carbanilate 12%. Method of Support: Application proceeds under 2(b) of interim policy. New use. Revised offer/pay. PM25

EPA File symbol 8845-ET. Kenco Chemical & Manuf. Co., P.O. Box 6246, Jacksonville, Fla. 32205. Rid-A-Bug Brand Lawn Insect Control. Active Ingredients: Chloropyrifos [0,0-diethyl 0-(3,5,6-Trichloro-2-pyridyl) Phosphorothioate] .50%; Aromatic Petroleum Solvent .28%. Method of Support: Application proceeds under 2(b) of interim policy. New registration. PM12

EPA File Symbol 9342-RN. J.F. Kerns Industries, 2061 N. Durfee Avenue, South El Monte, Calif. 91733. M D 6. Active Ingredients: n-Alkyl (50% C14, 40% C12, 10% C16) dimethyl benzyl ammonium chloride 1.5%; Sodium metasilicate 3.0%. Method of Support: Application proceeds under 2(b) of interim policy. New offer to pay. PM33

EPA File Symbol 320903-E. Sanitizer Softener Systems, Inc., 210 Bell St., Chagrin Falls, Ohio 44022. Sani System Sanitizer Cleaner. Active Ingredients: Alkyl (60% C14, 30% C16, 5% C12, 5% C18) Dimethyl Benzyl Ammonium Chlorides 1.28%; Alkyl (68% C12, 32% C14) Dimethyl Ethylbenzyl Ammonium Chlorides 1.28%; Sodium carbonate 2.00%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA File Symbol 32903-U. Sanitizer Softener Systems, Inc. Sani System Formula I-DC. Active Ingredients: Didecyl dimethyl ammonium chloride 2.5%; Tetrasodium ethylenediamine tetracetate 2.0%; Sodium carbonate 1.5%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA File Symbol 41256-R. Texas Bzzzz Chemical Co., 538 West Obion, Houston, Tex. 77091. Sanitizer-Cleaner 45-7. Active Ingredients: Alkyl (60%, C14, 30% C16, 5% C12, 5% C18) Dimethyl Benzyl Ammonium Chlorides 1.28%; Alkyl (68% C12, 32% C14) Dimethyl Ethylbenzyl Ammonium Chlorides 1.28%; Sodium carbonate 2.00%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

APPLICATIONS RECEIVED [OPP-33000/533]

EPA Reg. No. 352-342. E. I. du Pont de Nemours & Co., Inc., Biochemicals Department, Wilmington, Del. 19898. Lannate. Active Ingredients: Methomyl (S-methyl N-[(methyl - carbamoyl)-oxy]thioacetimidate) 90%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: added pests. PM12

EPA Reg. No. 352-342. E. I. du Pont de Nemours & Co., Inc., Lannate. Active Ingredients: Methomyl (S-methyl N-[(methylcarbamoyl)oxy]thioacetimidate) 90%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: dosage rate change. PM12

EPA Reg. No. 352-370. E. I. du Pont de Nemours & Co., Inc., Lannate L. Active Ingredients: Methomyl (S-methyl N-[(methylcarbamoyl)oxy] thioacetimidate) 24%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: added pests. PM12

EPA Reg. No. 352-370. E. I. du Pont de Nemours & Co., Inc., Lannate L. Active Ingredients: Methomyl (S-methyl N-[(methylcarbamoyl)oxy]thioacetimidate) 24%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: dosage rate change. PM12

EPA File Symbol 538-RLE. O. M. Scott & Sons Co., Marysville, Ohio 43040. Proturf Brand Seed Treatment Fungicide II. Active Ingredients: 1,4-dichloro-2,5-dimethoxybenzene 65%. Method of Support: Application proceds under 2(b) of interim policy. PM21

EPA File Symbol 707-RGL. Rohm & Haas Co., Independence Mall West, Philadelphia, Pa. 19105. Vacor Mousekiller. Active ingredients: N-3-pyridylmethyl N'-p-nitrophenyl urea 2.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM11

EPA File symbol 707-RGA. Rohm & Haas Co. DLP-787 Mousekiller. Active Ingredients: N-3-pyridylmethyl N'-p-nitrophenyl urea 2.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM11

EPA File Symbol 998-REL. Superior Chemical Products, Inc., 3942 Frankford Ave., Philadelphia, Pa. 19124. Saniwash II. Active Ingredients; n-Alkyl (50% C14, 40% C12, 10% C16) dimethyl benzyl ammonium chloride 5.0%; Tetrasodium salt of ethylene diamine tetraacetic acid 2.3%; Sodium carbonate 2.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA Reg. No. 1471-35. Elanco Products, Co., a division of Eli Lilly and Co., P.O. Box 1750, Indianapolis, Ind. 46206. Elanco Treflan E.C. Active Ingredients: Trifluralin(a,a,a - trifluoro - 2,6 - dinitro - N,N - dipropyl - p - toluidine) 44.5%. Method of Support: Application proceeds under 2(b) of interim policy. Republished. Additional use: tank mix with Copard. PM23

EPA Reg. No. 1471-35. Elanco Products, Co. Elanco Treflan E.C. Active Ingredients: Trifluralin (a,a,a-trifluoro-2,6-dinitro-N,N-deipropyl-p-toluidine) 44.5%. Methods of Support: Application proceeds under 2(b) of interim policy. Republished. Additional use: tank mix with Cotoran. PM23

EPA Reg. No. 1471-96. Elanco Products, Co. Surflan 75W. Active Ingredients: Oryzalin (3,5-dinitro-N4,N4 - dipropylsulfanilamide) 75%. Method of Support: Application proceeds under 2(a) of interim policy. Republished. Added use: tank mix with Sencor Lorox with liquid fertilizer. PM25.

EPA Reg. 1471-96. Elanco Products, Co. Surflan 75W. Active Ingredients: Oryzalin (3,5-dinitro-N4,N4 - dipropylsulfanilamide) 75%. Method of Support: Application proceeds under 2(a) of interim policy. Republished. Added use: Use on tank mixes or Surflan alone with soils containing up to 5% organic matter. PM25

EPA File Symbol 1769-EIT. National Chemsearch, Div. of USAchem, Inc., 2727 Chemsearch Boulevard, Irving, Tex. 75062. Everbrite Germicidal Cleaner Cleans-Disinfects-Deodorizes. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) Dimethyl Benzyl Ammonium Chlorides 2.25%; n-Alkyl (68% C12, 32% C14) Dimethyl Ethylbenzyl Ammonium Chlorides 2.25%; Sodium Carbonate 3.00%. Method of Support: Application proceeds under 2(b) of interim policy. PM31.

EPA File Symbol 2623-L. Everpure Inc., 660 N. Blackhawk Drive, Westmont, Ill. 60559. Everpure DC Bacteriostatic Replacement Filter Cartridge. Active Ingredients: Silver 0.05%. Method of Support: Application proceeds under 2(b) of interim policy. PM33

[FR Doc. 78-4465 Filed 2-16-78; 8:45 am]

[6570-06]

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

APPRENTICESHIP INFORMATION REPORT EEO-2

Extension of Deadline for Filing Report

Notice is hereby given that the deadline for filing the 1977 Apprenticeship Information Report EEO-2 required by 29 CFR 1602.15 is extended from November 30, 1977 to March 31, 1978. The payroll period for the EEO-2 report remains unchanged.

Signed at Washington, D.C. this 7th day of February 1978.

ELEANOR HOLMES NORTON,
Chair, Equal Employment Opportunity Commission.

[FR Doc. 78-4414 Filed 2-16-78; 8:45 am]

[6570-06]

LOCAL UNION REPORT EEO-3

Extension of Deadline for Filing Report

Notice is hereby given that the deadline for filing the 1977 Local Union Report EEO-3 required by 29 CFR 1602.22 is extended from December 31, 1977 to March 31, 1978. The payroll period for the EEO-3 report remains unchanged.

Signed at Washington, D.C. this 7th day of February 1978.

ELEANOR HOLMES NORTON,
Chair, Equal Employment Opportunity Commission.

[FR Doc. 78-4415 Filed 2-16-78; 8:45 am]

[6730-01]

FEDERAL MARITIME COMMISSION

[Independent Ocean Freight Forwarder License No. 701]

TRANSCOAST, INC.

Order of Revocation

On January 12, 1978, Transcoast, Inc., voluntarily surrendered its Independent Ocean Freight Forwarder License No. 701 for revocation.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised), Section 5.01(c), dated August 8, 1977;

It is ordered, that Independent Ocean Freight Forwarder License No. 701 issued to Transcoast, Inc., be and is hereby revoked effective January 12, 1978 without prejudice to reapply for a license in the future.

It is further ordered, that a copy of this Order be published in the FEDERAL REGISTER and served upon Transcoast, Inc.

LEROY F. FULLER,
Director, Bureau of Certification & Licensing.

[FR Doc. 78-4364 Filed 2-16-78; 8:45 am]

[6210-01]

FEDERAL RESERVE SYSTEM

FIRST SECURITY CORP.

Acquistion of Bank

First Security Corporation, Salt Lake City, Utah, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 99 percent or more of the voting shares of First Security State Bank of Ogden, Ogden, Utah, a proposed new bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of San Francisco. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than March 9, 1978.

Board of Governors of the Federal Reserve System, February 10, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-4406 Filed 2-16-78; 8:45 am]

[6210-01]

ASHLAND BANCSHARES, INC.

Formation of Bank Holding Company

Ashland Bancshares, Inc., Chicago, Ill., has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 97 percent or more of the voting shares (less directors' qualifying shares) of Ashland State Bank, Chicago, Ill. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors

or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received no later than March 9, 1978.

Board of Governors of the Federal Reserve System, February 10, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-4445 Filed 2-16-78; 8:45 am]

[6210-01]

CENTRAL NATIONAL CORP.

Acquisition of Bank

Central National Corp., Richmond, Va., has applied for the Board's approval under § 3(a)(3) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(3)) to acquire 100 percent (less directors' qualifying shares) of the voting shares of The Citizens National Bank of Emporia, Emporia, Va. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Richmond. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than March 12, 1978.

Board of Governors of the Federal Reserve System, February 13, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-4446 Filed 2-16-78; 8:45 am]

[4110-88]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Alcohol, Drug Abuse, and Mental Health Administration

ADVISORY COMMITTEES

Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), announcement is made of the following National Advisory body scheduled to assemble during the month of April 1978:

RAPE PREVENTION AND CONTROL ADVISORY COMMITTEE

Date and time: April 3-4; 9:30 a.m.
Place: Conference Room C, Parklawn Building, Rockville, Md. 20857.
Type of meeting: OPEN—April 3-4.
Contact: Ms. Elizabeth S. Kutzke, Room 10C-03, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-1910.
Purpose: The Rape Prevention and Control Advisory Committee advises the Secretary, Department of Health, Education, and Welfare, the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, and the Director, National Institute of Mental Health, through the National Center for the Prevention and Control of Rape, on matters regarding the needs and concerns associated with rape in the United States and makes recommendations pertaining to activities to be undertaken by the Department to address the problems of rape.
Agenda: The entire meeting will be open to the public. During the two-day meeting the Advisory Committee will provide input on the National Center's fiscal year 1978 program activities.

Attendance by the public will be limited to space available. Substantive information may be obtained from the contact person listed above.

The NIMH Information Officer who will furnish summaries of the meeting and a roster of Advisory Committee members is Dr. Jacquelyn Hall, Acting Chief, Public Information Branch, Division of Scientific and Public Information, NIMH, Room 15C-17, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4573.

Dated: February 9, 1978.

CAROLYN T. EVANS,
Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 78-4085 Filed 2-16-78; 8:45 am]

[4110-88]

ADVISORY COMMITTEE

Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), announcement is made of the following National Advisory body scheduled to assemble during the month of March 1978:

MINORITY GROUP MENTAL HEALTH PROGRAMS REVIEW COMMITTEE

Date and time: March 9-10; 9 a.m.
Place: Mayflower Hotel, New York Suite, 1127 Connecticut Avenue NW., Washington, D.C. 20036.
Type of meeting: OPEN—March 9, 9 to 10:30 a.m. CLOSED—Otherwise.
Contact: Edna M. Hardy Hill, Room 7-103, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-2988.
Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to minority mental health research and training and makes recommendations to the National Advisory Mental Health Council for final review.
Agenda: From 9 a.m. to 10:30 a.m., March 9, the meeting will be open for discussion of administrative announcement and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Public Law 92-463 (5 U.S.C. Appendix I).

Substantive information may be obtained from the contact persons listed above. The NIMH Information Officer who will furnish upon request summaries of the meeting and rosters of the committee members is Dr. Jacquelyn Hall, Acting Chief, Public Information Branch, Division of Scientific and Public Information, NIMH, Room 15C-17, Parklawn Building, 9600 Fishers Lane, Rockville, Md. 20857, 301-443-4573.

Dated: February 10, 1978.

CAROLYN T. EVANS,
Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 78-4205 Filed 2-16-78; 8:45 am]

[4110-03]

[Docket No. 77N-0411]

DRUGS USED FOR TREATMENT OF NARCOTIC ADDICTS

Relationship Between Federally Operated Methadone Treatment Programs and State Methadone Authorities

CROSS REFERENCE: For a document setting forth the Food and Drug Administration and the National Institute on Drug Abuse joint final rule exempting each methadone treatment program operated directly by the Federal Government from regulation by a State authority and announcing that such methadone treatment programs will cooperate voluntarily with State authorities, see FR Doc. 78-4127 appearing under Food and Drug Administration (HEW) in the Rules section of this issue. Refer to the table of contents under "Food and Drug Administration" for the page number.

[4110-86]

Center for Disease Control

CENTER FOR DISEASE CONTROL PROGRAMS AND POLICIES ADVISORY COMMITTEE (AD HOC)

Change in Time of Meeting

Notice of the February 21-23, 1978, meeting of the CDC Programs and Policies Advisory Committee (Ad Hoc) was published in the FEDERAL REGISTER on Friday, January 20, 1978, Vol. 43, No. 14, page 2941.

The time of the meeting has been changed from 9 a.m. to 8 a.m.

All other aspects of the notice published on January 20, 1978, remain the same.

Dated: February 13, 1978.

JOHANNES STUART,
Acting Director,
Center for Disease Control.

[FR Doc. 78-4349 Filed 2-16-78; 8:45 am]

[4110-03]

ADVISORY COMMITTEES

Meetings

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces forthcoming meetings of public advisory committees of the Food and Drug Administration (FDA). This notice also sets forth a summary of the procedures governing committee meetings and methods by which interested persons may participate in open public hearings conducted by the committees and is issued under section 10(a) (1) and (2) of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), and FDA regulations (21 CFR Part 14) relating to advisory committees. The following advisory committee meetings are announced:

Committee name	Date, time, place	Type of meeting and contact person
1. Microbiology Device Classification Panel.	Mar. 7 and 8, 9 a.m., Rm. 425, 8757 Georgia Ave., Silver Spring, Md	Open public hearing, Mar. 7, 9 a.m. to 10 a.m.; open committee discussion, Mar. 7, 10 a.m. to 4:30 p.m.; closed committee deliberations, Mar. 8, 9 a.m. to 4:30 p.m.; Thomas M. Tsakeris (HFK-440), 8757 Georgia Ave., Silver Spring, Md. 20910, 301-427-7234.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of devices currently in use and makes recommendations for their regulation.

Agenda—Open public hearing. Interested parties are encouraged to present information pertinent to classification of microbiology devices to the executive secretary. Submission of data relative to tentative classification findings is also invited. Those desiring to make formal presentations should notify the executive secretary by February 27, 1978, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, references to any data to be relied on, and also an indication of the approximate time required to make their comments.

Open committee discussion. A staff member from the Bureau of Medical Devices' Division of Compliance Operations will discuss this group's views concerning the labeling requirements of culture media products.

The panel will discuss culture media labeling with a view toward specifying the minimum essential information required for proper use of these products by the user. The panel will address in particular the labeling requirements for differential and selective media.

The panel will reevaluate the classification recommendations for virology diagnostic reagents.

Closed committee deliberations. The panel will discuss Premarket Approval Application P770010 with a view toward making a recommendation for its approval or disapproval. This portion of the meeting will be closed to permit discussion of trade secret data (5 U.S.C. 552b(c)(4)).

Committee name	Date, time, place	Type of meeting and contact person
2. Blood and Blood Derivatives Panel..	Mar. 10 and 11, 9 a.m., Rm. 115, Bldg. 29, 8800 Rockville Pike, Bethesda, Md.	Open public hearings, Mar. 10, 9 a.m. to 10 a.m.; open committee discussion, Mar. 10, 10 a.m. to 5:30 p.m., Mar. 11, 8:30 a.m. to 12 m.; closed committee deliberations, Mar. 11, 12 m. to 4 p.m.; Clay Sisk (HFB-5), 8800 Rockville Pike, Bethesda Md. 20014, 301-443-5455.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of biological products.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. Discussion of antivenins; anti-human serums; blood grouping and typing serums; hepatitis testing; thrombin; fibrinolysin (human); and revision of reviews of stored red blood cell products, plasma fractionation products, and blood-group-specific substances.

Closed committee deliberations. Review of data submissions of producers of blood diagnostic reagents, thrombin, fibrinolysin (human) and other plasma products. This portion of the meeting will be closed to permit discussion of trade secret manufacturing processes (5 U.S.C.552b(c)(4)).

Committee name	Date, time, place	Type of meeting and contact person
3. Cardiovascular and Renal Advisory Committee.	Mar. 16 and 17, 9 a.m., Conference Rm. F, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open public hearing, Mar. 16, 9 a.m. to 10 a.m.; closed presentation of data/closed committee deliberations, Mar. 16, 10 a.m. to 5 p.m.; open committee discussion, Mar. 17, 9 a.m. to 12 m.; Joan C. Standaert (HFD-110), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4730.

General function of the committee. Reviews and evaluates data concerning the safety and effectiveness of marketed and investigational prescription drugs for use in cardiovascular and renal disorders.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. Discussion of Anturane (NDA 18-111), Ciba-Geigy; and Sufinpyrazone—for secondary prevention of myocardial infarction.

Closed presentation of data/closed committee deliberations. Presentation by sponsor on Minoxidil. This portion of the meeting will be closed to permit discussion of trade secret data (5 U.S.C. 552b(c)(4)).

Each public advisory committee meeting listed above may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. The dates and times reserved for the separate portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairman determines will facilitate the committee's work.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this FEDERAL REGISTER notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairman's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

A list of committee members and summary minutes of meetings may be obtained from the Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, Md. 20857, between the hours of 9 a.m. and 4 p.m., Monday through Friday. The FDA regulations relating to public advisory committees may be found in 21 CFR Part 14.

The Commissioner, with the concurrence of the Chief Counsel, has determined for the reasons stated that those portions of the advisory committee meetings so designated in this notice shall be closed. The Federal Advisory Committee Act (FACA), as amended by the Government in the Sunshine Act (Pub. L. 94-409), permit such closed advisory committee meetings in certain circumstances. Those portions of a meeting designated as closed, however, shall be closed for the shortest possible time, consistent with the intent of the cited statutes.

The FACA, as amended, provides that a portion of a meeting may be closed where the matter for discussion involves a trade secret; commercial or financial information that is privileged or confidential; information of a personal nature, disclosure of which would be a clearly unwarranted invasion of personal privacy; investigatory files compiled for law enforcement purposes; information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action; and information in certain other instances not generally relevant to FDA matters.

Examples of portions of FDA advisory committee meetings that ordinarily may be closed, where necessary and in accordance with FACA criteria, include the review, discussion, and evaluation of drafts of regulations or guidelines or similar preexisting internal agency documents, but only if their premature disclosure is likely to significantly frustrate implementation of proposed agency action; review of trade secrets and confidential commercial or financial information submitted to the agency; consideration of matters involving investigatory files compiled for law enforcement purposes; and review of matters, such as personnel records or individual patient records, where disclosure would constitute a clearly unwarranted invasion of personal privacy.

Examples of portions of FDA advisory committee meetings that ordinarily shall not be closed include the review, discussion, and evaluation of general preclinical and clinical test protocols and procedures for a class of drugs or devices; consideration of labeling requirements for a class of marketed drugs or devices; review of data and information on specific investigational or marketed drugs and devices that have previously been made public; presentation of any other data or information that is not exempt from public disclosure pursuant to the FACA, as amended; and, notably, deliberative sessions to formulate advice and recommendations to the agency on matters that do not independently justify closing.

Dated: February 9, 1978.

DONALD KENNEDY,
Commissioner of Food and Drugs.

[FR Doc. 78-4352 Filed 2-16-78; 8:45 am]

[4110-03]

Food and Drug Administration

ADVISORY COMMITTEES

Meetings

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces forthcoming meetings of public advisory committees of the Food and Drug Administration (FDA). This notice also sets forth a summary of the procedures governing committee meetings and methods by which interested persons may participate in open public hearings conducted by the committees and is issued under section 10(a) (1) and (2) of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), and FDA regulations (21 CFR Part 14) relating to advisory committees. The following advisory committee meetings are announced:

Committee name	Date, time, place	Type of meeting and contact person
1. Clinical Toxicology Device Classification Panel.	March 2 and 3, 8:30 a.m., Rm. 425, 8757 Georgia Ave., Silver Spring, Md.....	Open public hearing, March 2, 8:30 a.m. to 9:30 a.m.; open committee discussion, March 2, 9:30 a.m. to 4:30 p.m., March 3, 8:30 a.m. to 4:30 p.m.; Srikrishna Vadlamudi, —Ph.D., D.V.M., (HFK-440), 8757 Georgia Ave., Silver Spring, Md. 20910, 301-427-7234.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of devices currently in use and makes recommendations for their regulation.

Agenda—Open public hearing. Interested parties are encouraged to present information pertinent to exemptions for Class I products to the executive secretary. Submission of data relative to tentative classification findings is also invited. Those desiring to make formal presentations should notify the executive secretary by February 24, 1978, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, references to any data to be relied on, and also an indication of the approximate time required to make their presentations.

Open committee discussion. The panel will review and discuss the exemptions for Class I products classified so far by the panel.

The panel will also discuss the Anode Stripping Voltmeter for detecting heavy metals.

Committee name	Date, time, place	Type of meeting and contact person
2. General Hospital and personal use device classification panel.	March 2 and 3, 8:30 a.m., room 1813, FB-8, 200 C St. SW., Washington, D.C..	Open public hearing, March 2, 8:30 a.m. to 9:30 a.m.; open committee discussion, March 2, 9:30 a.m. to 4:30 p.m., March 3, 8:30 a.m. to 4:30 p.m.; William C. Dierkesheide, Ph. D., (HFK-440), 8757 Georgia Ave., Silver Spring, Md. 20910, 301-427-7234.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of devices currently in use and makes recommendations for their regulation.

Agenda—Open public hearing. Interested parties are encouraged to present information pertinent to the classification of general hospital and personal use devices. Submission of data relative to tentative classification findings is also invited. Those desiring to make formal presentations should notify the executive secretary by February 22, 1978, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, references to any data to be relied on, and also an indication of the approximate time required to make their comments.

Open committee discussion. The panel will classify the following devices: bulb syringe; irrigating syringe; linen protector; intravenous catheter securement device; bed patient monitor; neonatal transilluminator light; dry heat sanitizer; admixture container; pneumatic fluid injector; liquid crystal fever indicator; phototherapy unit; liquid adhesive (collodian) skin closure; ultraviolet water purifier; disposable general hospital bedding; lubricants; alternating pressure pads; and filter aspirating needle.

The panel will discuss exemptions for Class I devices and a test protocol for infant radiant warmers.

Committee name	Date, time, place	Type of meeting and contact person
3. Immunology Device Classification Panel.	March 9 and 10, 8:30 a.m., Room 425, 8757 Georgia Ave., Silver Spring, Md.	Open public hearing, March 9, 8:30 a.m. to 9:30 a.m.; open committee discussion, March 9, 9:30 a.m. to 4:30 p.m., March 10, 8:30 a.m. to 4:30 p.m.; Srikrishna Vadlamudi, Ph. D., D.V.M. (HFK-440), 8757 Georgia Ave., Silver Spring, Md. 20910, 301-427-7234.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of devices currently in use and makes recommendations for their regulation.

Agenda—Open public hearing. Interested parties are encouraged to present information pertinent to exemptions for Class I products to the executive secretary. Submission of data relative to tentative classification findings is also invited. Those desiring to make formal presentations should notify the executive secretary by February 24, 1978, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, references to any data to be relied on, and also an indication of the approximate time required to make their comments.

Open committee discussion. The panel will discuss and review the exemptions for Class I products that have been classified by the Immunology Device Classification Panel.

Committee name	Date, time, and place	Type of meeting and contact person
4. Miscellaneous External Drug Products Panel.	Mar. 10 and 11 9 a.m., conference room. B, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md. (Mar. 10), Holiday Inn, Bethesda, Md. (Mar. 11).	Open public hearing, Mar. 10, 9 a.m. to 10 a.m.; open committee discussion, Mar. 10, 10 a.m. to 4:30 p.m., March 11, 9 a.m. to 4:30 p.m.; John T. McElroy (HFD-510), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4960

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of nonprescription drug products.

Agenda—Open public hearing. Any interested persons may present data, information of views, orally or in writing, on issues pending before the panel. Those who desire to make such a presentation should notify the contact person before March 7, 1978, and submit a brief statement of the general nature of the data, information, or views they wish to present, the names and addresses of proposed participants, and an indication of the approximate time desired for their presentation.

Open committee discussion. The panel will review data submitted pursuant to the over-the-counter (OTC) review's call for data for this panel (see also 21 CFR 330.10(a)(2)).

The panel will be reviewing, voting upon, and modifying the content of summary minutes and categorization of ingredients and claims.

Committee name	Date, time, and place	Type of meeting and contact person
5. Miscellaneous Internal Drug Products Panel.	Mar. 10, 11, and 12, 9 a.m., Conference Room G (Mar. 10), Holiday Inn, Chevy Chase, Md. (Mar. 11 and 12).	Open public hearing, Mar. 10, 9 a.m. to 10 a.m.; open committee discussion Mar. 10, 10 a.m. to 4:30 p.m., Mar. 11 and 12, 9 a.m. to 4:30 p.m.; Armond M. Welch (HFD-510), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4960.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of nonprescription drug products.

Agenda—Open public hearing. Any interested persons may present data information or views, orally or in writing, on issues pending before the panel. Those who desire to make such a presentation should notify the contact person before March 7, 1978 and submit a brief statement of the general nature of the data, information, or views they wish to present, the names and addresses of proposed participants, and an indication of the approximate time desired for their presentation.

Open committee discussion. The panel will review data submitted pursuant to the over-the-counter (OTC) review's call for data for this panel (see also 21 CFR 330.10(a)(2)).

The Panel will be reviewing, voting upon, and modifying the content of summary minutes and categorization of ingredients and claims.

Committee name	Date, time, and place	Type of meeting and contact person
6. Dentifrices and Dental Care Agents Panel.	Mar. 11 and 12, 9 a.m., Holiday Inn, Chevy Chase, Md.	Open public hearing, Mar. 11, 9 a.m. to 10 a.m.; open committee discussion, Mar. 11, 10 a.m. to 4:30 p.m., Mar. 12, 9 a.m. to 4:30 p.m.; Thomas DeCillis (HFD-510), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4960.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of nonprescription drug products.

Agenda—Open public hearing. Any interested persons may present data, information or views, orally or in writing, on issues pending before the panel. Those who desire to make such a presentation should notify the contact person before March 8, 1978 and submit a brief statement of the general nature of the data, information, or views they wish to present, the names and addresses of proposed participants, and an indication of the approximate time desired for the presentation.

Open committee discussion. The panel will review data submitted pursuant to the over-the-counter (OTC) review's call for data for this panel (see also 21 CFR 330.10(a)(2)).

The panel will be reviewing, voting upon, and modifying the content of summary minutes and categorization of ingredients and claims.

Committee name	Date, time, and place	Type of meeting and contact person
7. Clinical Chemistry Device Classification Panel.	Mar. 13 and 14, 9 a.m., Room 1813, FB-8, 200 C St. SW., Washington, D.C.	Open public hearing, Mar. 13, 9 a.m. to 10 a.m.; open committee discussion Mar. 13, 10 a.m. to 5 p.m., Mar. 14, 9 a.m. to 5 p.m.; Kaiser Aziz, Ph. D., (HFK-440), 8757 Georgia Ave., Silver Spring, Md. 20910, 301-427-7550.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of devices currently in use and makes recommendations for their regulation.

Agenda—Open public hearing. Interested parties are encouraged to present information pertinent to the classification of clinical chemistry devices to the executive secretary. Submission of data relative to tentative classification findings is also invited. Those desiring to make formal presentations should notify the executive secretary by February 27, 1978, and submit a brief statement of the general nature of the evidence or argument they wish to present, the names and addresses of proposed participants, references to any data to be relied on, and an indication of the approximate time required to make their presentations.

Open committee discussion. The panel will discuss the classification recommendations for products considered by the panel during the 1976-1977 sessions.

Committee name	Date, time, and place	Type of meeting and contact person
8. Special Subcommittee of the Pulmonary-Allergy and Clinical Immunology Advisory Committee.	Mar. 14, 8 a.m., 1st floor board room, National Jewish Hospital, 3800 Colfax Ave., Denver, Colo.	Open public hearing, 8 a.m. to 9 a.m.; open committee 9 a.m. to 5:30 p.m.; I. David Wolfson (HFD-150), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3500.

General function of the committee. Reviews and evaluates available data concerning safety and effectiveness of marketed and investigational prescription drugs for use in treatment of pulmonary disease and diseases with allergic and/or immunologic mechanisms.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. A review of current available data and the state of the art to develop guidelines for the standardization and interpretation of flow-volume loops in children, to improve the objective evaluation of both efficacy and risks associated with drugs used in both pulmonary and allergy related therapy.

Committee name	Date, time, and place	Type of meeting and contact person
9. Joint meeting of the Controlled Substances Advisory Committee and the FDA/NIDA Drug Abuse Research Advisory Committee.	Mar. 15 and 16, 9 a.m., conference room E, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open public hearing, Mar. 15, 9 a.m. to 10 a.m.; open committee discussion, Mar. 15, 10 a.m. to 4:30 p.m.; open public hearing Mar. 16, 9 a.m. to 10 a.m.; open committee discussion Mar. 16, 10 a.m. to 4:30 p.m.; Robert C. Nelson (HFD-120), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3800.

General function of the committees. The Controlled Substances Advisory Committee advises the Commissioner of Food and Drugs on the scientific and medical evaluation of all information gathered by the Department of Justice and the Department of Health, Education, and Welfare with regard to safety, effectiveness, and abuse potential of drugs or other substances classified as stimulants, sedatives, hypnotics, or analgesics, and recommends actions to be taken with regard to control of such substances.

The FDA/NIDA Drug Abuse Research Advisory Committee advises the Food and Drug Administration on action to be taken with respect to investigational use of substances with abuse potential. It advises the National Institute on Drug Abuse on supplies of substances for clinical studies and on quantities of substances for animal and in vitro studies. It advises FDA and NIDA on development of broad outlines for studies of substances with abuse potential and on new methods and tests in animals and man by which the dependence liability of investigational drugs may be estimated.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the committees.

Open committee discussion. Data presentation and discussion on marihauna to address the petitions for a change in scheduling; reassessment of data on agonist/antagonist analgesics: pentazocine, nalbuphine, butorphanol and cyclazocine; and review of research protocals.

Committee name	Date, time, and place	Type of meeting and contact person
10. Physical Medicine, Device Classification Panel.	Mar. 17, 9 a.m., room 1813, FB-8,200 C St. SW., Washington, D.C.	Open public hearing, 9 a.m. to 10 a.m.; open committee discussion, 10 a.m. to 4 p.m.; Johnsie W. Bailey (HFK-410), 8757 Georgia Ave., Silver Spring, Md. 20910, 301-427-7238.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of devices currently in use and makes recommendations for their regulation.

Agenda—Open public hearing. Interested parties are encouraged to present information pertinent to the discussions on the agenda in this notice to Johnsie W. Bailey, executive secretary. Submission of data relating to tentative classification findings is also invited. Those desiring to make a formal presentation should notify the executive secretary by March 3, 1978, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, references to any data to be relied on, and an indication of the approximate time required to make their presentations.

Open committee discussion. Discussion of available literature on the biological affects of electromagnetic energy and the Bureau of Radiological Health's proposed standard for microwave diathermy.

Review Class I devices recommended for exemptions. Review the premarket approval (Class III) recommendations for hot and cold disposable packs. Classification of any additional devices.

Committee name	Date, time, and place	Type of meeting and contact person
11. Surgical Drugs, Advisory Committee.	Mar. 17, 10 a.m., conference room G, Parklawn Building, 5600 Fishers Lane, Rockville, Md.	Open public hearing 10 a.m. to 11 a.m.; open committee discussion 11 a.m. to 4 p.m.; I. David Wolfson (HFD-160), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3500.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational prescription drugs for use in surgery.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. The committee will continue its deliberations on the safety, effectiveness, and labeling review of fibrinolysin and desoxyribonuclease, combined (bovine), powder for solution, ointment, and ointment with chloramphenicol.

These products, marketed by Parke, Davis and Co. as Elase ™ vials, Elase ™ ointment, and Elase-Chloromycetin ™ ointment will be reviewed under the criteria of 21 CFR 601.25 (d) and (e).

This review is being undertaken by the Surgical Drugs Advisory Committee of the Bureau of Drugs at the request of the Panel on Review of Blood and Blood Derivatives of the Bureau of Biologics. It has been determined that the knowledge and expertise of the members of the Surgical Drugs Advisory Committee are more appropriate for the review of clinical safety, effectiveness, and labeling of these products. The results of this review will be submitted to the Commissioner of Food and Drugs through the Panel on Review of Blood and Blood Derivatives and the Director of the Bureau of Biologics for appropriate response.

Presentations by Parke, Davis, and Co. and the FDA staff.

Committee name	Date, time, and place	Type of meeting and contact person
12. Antimicrobial Panel	Mar. 17 and 18, 9 a.m., conference room K (Mar. 17), Holiday Inn, Silver Spring, Md. (Mar. 18).	Open public hearing, Mar. 17, 9 a.m. to 10 a.m.; open committee discussion, Mar. 17, 10 a.m. to 4:30 p.m., Mar. 18, 9 a.m. to 4:30 p.m.; Armond M. Welch (HFD-510), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4960.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of nonprescription drug products.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the panel. Those who desire to make such a presentation should notify the contact person before March 14, 1978, and submit a brief statement of the general nature of the data, information, or views they wish to present, the names and addresses of proposed participants, and an indication of the approximate time desired for their presentation.

Open committee discussion. The panel will review data submitted pursuant to the over-the-counter (OTC) review's call for data for this panel (see also 21 CFR 330.10(a)(2)).

The panel will be reviewing, voting upon, and modifying the content of summary minutes and categorization of ingredients and claims.

Committee name	Date, time, and place	Type of meeting and contact person
13. Oral Cavity Panel	Mar. 20 and 21, 9 a.m., conference room C, Parklawn Building, 5600 Fishers Lane, Rockville, Md.	Open public hearing, Mar. 20, 9 a.m. to 10 a.m.; open committee discussion, Mar. 20, 10 a.m. to 4:30 p.m., Mar. 21, 9 a.m. to 4:30 p.m.; John T. McElroy (HFD-510), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4960.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of nonprescription drug products.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the panel. Those who desire to make such a presentation should notify the contact person before March 15, 1978, and submit a brief statement of the general nature of the data, information, or views they wish to present, the names and addresses of proposed participants, and an indication of the approximate time desired for their presentation.

Open committee discussion. The panel will review data submitted pursuant to the over-the-counter (OTC) review's call for data for this panel (see also 21 CFR 330.10(a)(2)).

The panel will be reviewing, voting upon, and modifying the content of summary minutes and categorization of ingredients and claims.

Committee name	Date, time, and place	Type of meeting and contact person
14. Orthopedic Device Classification Panel.	Mar. 21, 8 a.m., room 1813, FB-8, 200 C St. SW., Washington, D.C.	Open public hearing, 8 a.m. to 9 a.m.; open committee discussion, 9 a.m. to 5 p.m.; James G. Dillon, Ph. D., (HFK-410), 8757 Georgia Ave., Silver Spring, Md. 20910, 301-427-7238.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of devices currently in use and makes recommendations for their regulation.

Agenda—Open public hearing. Interested parties are encouraged to present information pertinent to (1) exemption of Class I orthopedic devices from the requirements of one or more of the following sections of the Federal Food, Drug, and Cosmetic Act: 21 U.S.C. 510, 21 U.S.C. 519, 21 U.S.C. 520(f); (2) protocols for preclinical and clinical studies conducted in accordance with sections 515 and 520(g) of the act; (3) classification of orthopedic implants containing carbon-reinforced polyethylene; (4) Silastic™ total wrist prostheses; and (5) review of recent clinical studies concerning noninvasive bone growth stimulation to the executive secretary. Submission of data relative to tentative classification findings is also invited. Those desiring to make formal presentations should notify the executive secretary by March 6, 1978 and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, references to any data to be relied on, and an indication of the approximate time required to make their comments.

Open committee discussion. The deliberations will concern the specific subjects listed as topics for the open public hearing.

Committee name	Date, time, and place	Types of meeting and contact person
15. Subcommittees of the Science Advisory Board.	Mar. 21, 22, and 23, 1:30 p.m., National Center for Toxicological Research, Jefferson, Ariz..	Open public hearing, Mar. 21, 1:30 p.m. to 5 p.m.; open committee discussion, Mar. 22 and 23, 9 a.m. to 4 p.m.; Ruth S. Magee, National Center for Toxicological Research, Jefferson, Ariz. 72079, 501-541-4528.

General function of the committee. Advises on establishment and implementation of a research program that will assist the Commissioner of Food and Drugs and the Administrator, Environmental Protection Agency, in fulfilling their regulatory responsibilities.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the board.

Open committee discussion. Subcommittee meetings as follows: Hormone Subcommittee—overview of program, new protocols and project priorities, discussion of endocrine toxicology. Immunology Subcommittee—tumorimmunity project proposal and status report on ongoing projects. Aromatic Amines Subcommittee—status of long-term and biochemical studies. Bladder Cancer Subcommittee—update on ongoing projects. Pathology Subcommittee—update on personnel and facilities. Hepatoma Subcommittee—report on NCTR/NCI liver workshop. Science Advisory Board Agenda—Status of Center operation, role of Science Advisory Board, subcommittee reports, and recommendations.

Committee name	Date, time, and place	Type of meeting and contact person
16. Contraceptive and Other Vaginal Drug Products Panel.	Mar. 28, 9 a.m., conference room G, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md..	Open public hearing, 9 a.m. to 10 a.m.; open committee discussion, 10 a.m. to 4:30 p.m., Armond M. Welch (HFD-510), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4960.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of nonprescription drug products.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the panel. Those who desire to make such a presentation should notify the contact person before March 23, 1978 and submit a brief statement of the general nature of the data, information, or views they wish to present, the names and addresses of proposed participants, and an indication of the approximate time desired for their presentation.

Open committee discussion. The panel will review data submitted pursuant to the over-the-counter (OTC) review's call for data for this panel (see also 21 CFR 330.10(a)(2)).

The panel will be reviewing, voting upon, and modifying the content of summary minutes and categorization of ingredients and claims.

Committee name	Date, time, and place	Type of meeting and contact person
16a. Subcommittee of the Arthritis Advisory Committee.	Mar. 28, 9 a.m., conference room M. Parklawn Building, 5600 Fishers Lane, Rockville, Md..	Open public hearing, 9 a.m. to 10 a.m.; open committee discussion 10 a.m. to 5 p.m.; John G. Harter, M.D. (HFD-150), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4260.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational prescription drugs for use in arthritic conditions.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. Discussion of the basis of approval for Nonsteroidal Anti-inflammatory Drugs (NSAID).

Committee name	Date, time, and place	Type of meeting and contact person
17. Hematology Device Classification Panel.	Mar. 28 and 29, 9 a.m., Room 1409, FB-8, 200 C St. SW., Washington, D.C..	Open public hearing, Mar. 28, 9 a.m. to 10 a.m.; open committee discussion, Mar. 28, 10 a.m. to 5 p.m.; Mar. 29, 9 a.m. to 5 p.m.; Kaiser Aziz, Ph. D. (HFK-440), 8757 Georgia Ave., Silver Spring, Md. 20910, 301-427-7550.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of devices currently in use and makes recommendations for their regulation.

Agenda—Open public hearing. Interested parties are encouraged to present information pertinent to the classification of hematological products listed in this anouncement to the executive secretary. Submission of data relative to tentative classification findings is also invited. Those desiring to make formal presentations should notify the executive secretary by March 3, 1978, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, references to any data to be relied on, and also an

indication of the approximate time required to make their comments.

Open committee discussion. The panel will review and comment on the reclassification petition under section 513(f)(2) of the act (21 U.S.C. 360c(f)(2)), from Sigma Chemical Co., St. Louis, Mo., for its Galactose-1-Phosphate Uridyl Transferase Procedure No. 195.

The panel will classify the following hematological products: automated coombs test system; automated blood grouping typing and antibody test systems; bovine albumin; cell-freezing apparatus and reagents; blood-processing equipment (frozen blood); cell-washing system; centrifuges, blood bank; centrifuges for blood typing; blood collection equipment, blood bank; recipient sets, blood bank; refrigerators, blood storage; Rh typing boxes; quality control material for blood banking (cells, diluents, antisera); pipet, blood bank; sheep red cells; plasmapheresis equipment and dry containers; accessory equipment for measurement of Hepatitis B surface antigen; blood group specific substances for IVD use; plasma transfer sets; lectins for blood grouping; potentiating media (albumin and enzymes); and calibrators for hematology.

Committee name	Date, time, and place	Type of meeting and contact person
18. General and Plastic Surgery Device Classification Panel.	Mar. 31, 8 a.m., room 1137, HEW-N., 330 Independence Ave. SW., Washington, D.C..	Open committee discussion 8 a.m. to 2:30 p.m.; open public hearing, 2:30 p.m. to 3:30 p.m.; Mark F. Parrish, Ph. D. (HFK-410), 8757 Georgia Ave., Silver Spring, Md. 20910, 301-427-7238.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of devices currently in use and makes recommendations for their regulation.

Agenda—Open public hearing. Interested parties are encouraged to present information pertinent to the devices listed below to the executive secretary. Submission of data relative to tentative classification findings is also invited. Those desiring to make formal presentations should notify the executive secretary by March 24, 1978, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, references to any data to be relied on, and an indication of the approximate time required to make their presentations.

Open committee discussion. Linda Horton, associate chief counsel for medical devices, will update the panel on its individual and collective responsibilities, as well as agency plans for implementing panel classification recommendations.

A presentation will be made by Depilatron, Inc., on high-frequency tweezer-type epilators.

The panel will discuss guidelines for the safe manufacture and use of PUVA photochemotherapy cabinets for treatment of psoriasis.

Esophageal motility tubes were classified into the standards category, low priority, at the panel's January 13, 1978, meeting. The panel will entertain any additional data pertinent to the classification of these devices.

Silicone instrument spray, surgical skin degreasers, and adhesive tape solvents will be discussed. The panel seeks composition and toxicity data on these products.

FDA public advisory committee meetings may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. There are no closed portions for the meetings announced in this notice. The dates and times reserved for the open portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairman determines will facilitate the committee's work.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this FEDERAL REGISTER notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairman's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

A list of committee members and summary minutes of meetings may be obtained from the Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, Md. 20857, between the hours of 9 a.m. and 4 p.m., Monday through Friday. The FDA regulations relating to public advisory committees may be found in 21 CFR Part 14.

The Commissioner approves the scheduling of meetings at locations outside of the Washington, D.C., area on the basis of the criteria of 21 CFR 14.22 of FDA's regulations relating to public advisory committees.

Dated: February 8, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc. 78-4083 Filed 2-16-78; 8:45 am]

[4110-03]

[Docket No. 77N-0345]

SAFETY OF CERTAIN FOOD INGREDIENTS

Opportunity for Public Hearing

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This document announces an opportunity for public hearing on the safety of biotin, lactic acid, and calcium lactate to determine

if they are generally recognized as safe (GRAS) or subject to a prior sanction. This action accords with procedures of a comprehensive safety review that the agency is conducting. Interested persons are given an opportunity to give their views on the safety of these substances.

DATE: Requests to make oral presentations at the public hearing must be postmarked on or before March 20, 1978.

ADDRESSES: Written requests to the Select Committee on GRAS Substances, Life Sciences Research Office, Federation of American Societies for Experimental Biology, 9650 Rockville Pike, Bethesda, Md. 20014, and to the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Corbin I. Miles, Bureau of Foods (HFF-335), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C Street SW., Washington, D.C. 20204, 202-472-4750.

SUPPLEMENTARY INFORMATION: The Commissioner of Food and Drugs issued in the FEDERAL REGISTER of July 26, 1973 (38 FR 20053) a notice advising the public that an opportunity would be provided for oral presentation of data, information, and views at public hearings to be conducted by the Select Committee on GRAS Substances of the Life Sciences Research Office, Federation of American Societies for Experimental Biology (hereafter, the Select Committee), about the safety of ingredients used in food to determine if they are GRAS or subject to a prior sanction.

The Commissioner now gives notice that the Select Committee is prepared to conduct a public hearing on the following categories of food ingredients: biotin; D-lactic acid, L-lactic acid, DL-lactic acid, D-calcium lactate, L-calcium lactate, and DL-calcium lactate used beyond infancy; and D-lactic acid, DL-lactic acid, D-calcium lactate, and DL-calcium lactate used in infant formulas. The public hearing will provide an opportunity before the Select Committee reaches its final conclusions for any interested person(s) to present scientific data, information, and views on the safety of these substances, in addition to those previously submitted in writing pursuant to notices published in the FEDERAL REGISTER of July 26, 1973 (38 FR 20051, 20053) and April 17, 1974 (39 FR 13798).

The Select Committee has reviewed all the available data and information on the categories of food ingredients listed above and has reached one of the five following tentative conclusions on the status of each:

1. There is no evidence in the available information that demonstrates or suggests reasonable grounds to suspect a hazard to the public when it is used at levels that are now current or that might reasonably be expected in the future.

2. There is no evidence in the available information that demonstrates or suggests reasonable grounds to suspect a hazard to the public when it is used at levels that are now current and in the manner now practiced. However, it is not possible to determine, without additional data, whether a significant increase in consumption would constitute a dietary hazard. (This finding does not apply to the substances covered by this notice.)

3. Although no evidence in the available information demonstrates a hazard to the public when it is used at levels that are now current and in the manner now practiced, uncertainties exist requiring that additional studies be conducted. (This finding does not apply to the substances covered by this notice.)

4. The evidence is insufficient to determine that the adverse effects reported are not deleterious to the public health when it is used at levels that are now current and in the manner now practiced.

5. The information available is not sufficient to make a tentative conclusion. (This finding does not apply to the substances covered by this notice.)

The following table lists each ingredient, the Select Committee's tentative conclusion (keyed to the five types of conclusions listed above), and the available information on which the Select Committee reached its conclusions:

Substances	Select Committee tentative conclusion	Scientific literature review			Animal study report		Other information
		Order No.	Price code	Price	Order No.	Cost	
Biotin	1	PB-234-890/AS.	A107	$7.25			a. Human intake data from "A comprehensive survey of industry on the use of food chemicals generally recognized as safe (GRAS)" available from the National Technical Information Service, PB-221-920 through 221-949 (set); price code, E99; price, $173.00. b. Biotin III. Animal safety data. Unpublished report to FDA by Hoffmann-LaRoche, Inc. c. Survey of substances generally recognized as safe. Biotin. 1972. Unpublished report to FDA by NAS/NRC.
Lactic acid and calcium lactate.		PB-241-958/AS.	A09	9.00	Mutagenic evaluation (tier 1) of lactic acid (75-19), USP, by Litton Bionetics, Inc., under FDA contract (PB-257-867/AS); price code, A03; price, $4.50.		a. Human intake data from "A comprehensive survey of industry on the use of food chemicals generally recognized as safe (GRAS)" available from the National Technical Information Service, PB Nos. 221-921 through 221-949.
D-lactic acid (beyond infancy).	1						
L-lactic acid (beyond infancy).	1						
DL-lactic acid (beyond infancy).	1						
D-calcium lactate (beyond infancy).	1						
L-calcium lactate (beyond infancy).	1						
DL-calcium lactate (beyond infancy).	1						

Substances	Select Committee tentative conclusion	Scientific literature review Order No.	Price code	Price	Animal study report Order No.	Cost	Other information
D-lactic acid (infant formulas).	4				Mutagenic evaluation (tier 1) of calcium lactate (75-20), USP, by Litton Bionetics, Inc., under FDA contract (PB-257-877/AS); price code, A03; price, $4.50.		b. Evaluation of the health aspects of malic acid as a food ingredient (SCOGS-56), submitted by FASEB (PB-262-62/AS); price code, A02; price, $4.
DL-lactic acid (infant formulas).	4						
D-calcium lactate (infant formulas).	4						
DL-calcium lactate (infant formulas).	4						

NOTE.—The above-stated prices are subject to change.

Reports in the table with "PB" prefixes may be obtained from the National Technical Information Service, U.S. Department of Commerce, 5285 Port Royal Road, Springfield, Va. 22151.

In addition to the information contained in the documents listed in the table above, the Select Committee supplemented, where appropriate, their reviews with specific information from specialized sources as announced in a previous hearing opportunity notice published in the FEDERAL REGISTER of September 23, 1974 (39 FR 34218).

The Select Committee's tentative reports on biotin; D-lactic acid L-lactic acid, DL-lactic acid, D-calcium lactate, L-calcium lactate, and DL-calcium lactate used beyond infancy; and D-lactic acid, DL-lactic acid, D-calcium lactate, and DL-calcium lactate used in infant formulas are available for review at the office of the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, and also at the Public Information Office, Food and Drug Administration, Room 3807, 200 C Street SW., Washington, D.C. 20204. In addition, all reports and documents used by the Select Committee to review the ingredients are available for review at the office of the Hearing Clerk, Food and Drug Administration.

To schedule the public hearing, the Select Committee must be informed of the number of persons who wish to attend and the amount of time requested to give their views. Accordingly, any interested person who wishes to appear at the public hearing to make an oral presentation shall so inform the Select Committee in writing, addressed to: the Select Committee on GRAS Substances, Life Sciences Research Office, Federation of American Societies for Experimental Biology, 9650 Rockville Pike, Bethesda, Md. 20014. A copy of each such request shall be sent to the Hearing Clerk, address noted above, and all requests shall be placed on public display in that office. Any such request must be postmarked on or before March 20, 1978, shall state the substance(s) on which an opportunity to present oral views is requested, and shall state how much time is requested for the presentation. As soon as possible thereafter, a notice announcing the date, time, place, and scheduled presentations for any public hearing that may be requested will be published in the FEDERAL REGISTER.

The purpose of the public hearing is to receive data, information, and views not previously available to the Select Committee about the substances listed above. Information already contained in the scientific literature reviews and in the tentative Select Committee report shall not be duplicated, although views on the interpretation of this material may be presented.

Depending on the number of requests for opportunity to make oral presentations, the Select Committee may reduce the time requested for any presentation. Owing to time limitations, individuals and organizations with common interests are urged to consolidate their presentations. Any interested person may, in lieu of an oral presentation, submit written views, which shall be considered by the Select Committee. Three copies of such written views shall be addressed to the Select Committee at the address noted above, and must be postmarked not later than 10 days before the scheduled date of the hearing. A copy of any written views shall be sent to the Hearing Clerk, Food and Drug Administration, and shall be placed on public display in that office.

A public hearing will be presided over by a member of the Select Committee. Hearings will be transcribed by a reporting service, and a transcript of each hearing may be purchased directly from the reporting service and will also be placed on public display in the office of the Hearing Clerk, Food and Drug Administration.

Dated: February 7, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc. 78-4084 Filed 2-16-78; 8:45 am]

[4110-03]

[Docket No. 77N-0390; DESI 5319]

CERTAIN RADIOPAQUE DRUGS

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 certain radiopaque drugs for the indications for which they continue to be regarded as effective, allowing for the submission of abbreviated new drug applications.

DATE: Supplements to approve new drug applications due on or before April 18, 1978.

ADDRESSES: Communications forwarded in response to this notice should be identified with the reference number DESI 5319, 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 Oncology and Radiopharmaceutical Drug Products (HFD-150), Room 17B-34, 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 (HFD-18), Room 4-62.

Requests for opinion of the applicability of this notice to a specific product: Division of Drug Labeling Compliance (HFC-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 5319; Docket No. FDC-D-310 (now Docket No. 77N-0390)) published in the FEDERAL REGISTER of June 18, 1971 (36 FR 11765) the Food and Drug Administration announced its conclusions that all of the products described below are effective for the specifically stated indications and in addition that: (1) Ethiodized oil is possibly effective for use in sialography and sinus and fistulous tract visualization; (2) the combination of sodium acetrizoate and povidone is possibly effective for the mechanical release of tubal obstruction; and (3) sodium diatrizoate 50 percent lacks substantial evidence of effectiveness for use in retrograde pyelography.

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 these products.

A followup notice was published in the FEDERAL REGISTER of June 19, 1973 (38 FR 15986), reclassifying the possibly effective indication for ethiodized oil to lacking substantial evidence of effectiveness. The notice retained the requirement for full new drug applications.

Another followup notice was published in the FEDERAL REGISTER of August 13, 1976 (41 FR 34344) reclassifying the possibly effective indication for the sodium acetrizoate-povidone combination to lacking substantial evidence of effectiveness and stating that ANDA's are acceptable for that product. It did not address new drug application requirements for the other drugs named in the June 18, 1971 notice.

The Director of the Bureau of Drugs now concludes that ANDA's are appropriate for all of the products affected by the June 18, 1971 notice; however, all should include full manufacturing information.

(1) Preparations marketed by E. R. Squibb & Sons, Inc., Box 4000, Princeton, N.J. 08540:

(a) NDA 12-967; Oragrafin Sodium Capsules containing sodium ipodate.

(b) NDA 12-968; Oragrafin Calcium Granules containing calcium ipodate.

(c) NDA 9-321; Cholografin Sodium Injection containing sodium iodipamide.

(d) NDA 9-321; Cholografin Meglumine Injection containing meglumine iodipamide.

(e) NDA 10-040; Renografin-30, Renografin-60, and Renografin-76 Injections containing meglumine diatrizoate 30, 60, or 76 percent.

(f) NDA 10-040; Renovist Injection containing sodium diatrizoate and meglumine diatrizoate.

(g) NDA 11-245; Gastrografin Oral Solution containing meglumine diatrizoate.

(h) NDA 11-620; Cardiografin Injection containing meglumine diatrizoate.

(i) NDA 11-324; Sinografin Solution for Injection containing meglumine diatrizoate and meglumine iodipamide.

(2) Preparations previously marketed by Mallinckrodt Pharmaceuticals, Division Mallinckrodt Inc., P.O. Box 5439, St. Louis, Mo. 63147:

(a) NDA 6-990; Cystokon Sterile solution containing sodium acetrizoate.

(b) NDA 10-642; Thixokon Sterile Solution containing sodium acetrizoate.

(c) NDA 12-260; Ditriokon Sterile Solution containing sodium diatrizoate and sodium diprotrizoate.

(d) NDA 10-107; Miokon Sodium 50-percent Sterile Solution containing sodium diprotrizoate.

(3) Preparations marketed by Winthrop Laboratories or Winthrop Products, 90 Park Avenue, New York, N.Y. 10016:

(a) NDA 8-032; Telepaque Tablets containing iopanoic acid.

(b) NDA 11-386; Oral Hypaque Sodium Liquid and Powder containing sodium diatrizoate.

(c) NDA 9-992 and NDA 9-561; Hypaque Sodium 50-percent Sterile Aqueous Solution and Injection containing sodium diatrizoate.

(d) NDA 9-561; Hypaque Sodium 20-percent Sterile Aqueous Solution containing sodium diatrizoate.

(e) NDA 10-220; Hypaque-M 75 percent and 90 percent containing sodium diatrizoate and meglumine diatrizoate.

(4) NDA 9-190; Ethiodol containing ethiodized oil, marketed by E. Fougera and Co., Inc., Cantiague Road, Hicksville, N.Y. 11802.

(5) NDA 13-106; Hytrast containing iopydone and iopydol; previously marketed by E. Fougera and Co., Inc.

(6) NDA 9-008; Salpix Contrast Medium containing sodium acetrizoate and povidone; marketed by Ortho Pharmaceutical Corp., Route 202, Raritan, N.J. 08869.

(7) NDA 5-319; Pantopaque containing iophendylate; marketed by Lafayette Pharmacal, Inc., 522-26 North Earl Avenue, Lafayette, Ind. 47904.

In a notice published in the FEDERAL REGISTER of October 27, 1971 (36 FR 20619), approval of NDA's 6-990, 10-642, and 12-260 was withdrawn, and in a notice published in the FEDERAL REGISTER of June 7, 1977, approval of NDA's 10-107 and 13-106 was withdrawn; all were on the ground of failure to submit required reports under section 505(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)). The purpose of including these NDA's in this notice is to inform all interested persons that abbreviated new drug applications will be accepted for such products.

Accordingly, the June 18, 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 drug products.

In addition to the product(s) 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 a 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 drugs are 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.* The drug is in tablet, capsule, liquid, powder, sterile solution, or suspension form as described above, suitable for oral, rectal, intracavitary, instillation, or intravascular 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:

SODIUM IPODATE CAPSULES

For use in oral cholecystography. It may also be used for oral cholangiography, although it is not considered the method of choice.

CALCIUM IPODATE GRANULES

For use in oral cholecystography. It may also be used for oral cholangiography, although it is not considered the method of choice.

SODIUM IODIPAMIDE INJECTION OR MEGLUMINE IODIPAMIDE INJECTION

For use in intravenous cholangiography and cholecystography.

MEGLUMINE DIATRIZOATE INJECTION—30 PERCENT

For use in retrograde pyelography.

MEGLUMINE DIATRIZOATE INJECTION—60 PERCENT

For use in excretion urography; cerebral angiography; peripheral arteriography; venography; operative T-tube or percutaneous transhepatic cholangiography; splenoportography; arthrography; and diskography.

MEGLUMINE DIATRIZOATE INJECTION—76 PERCENT

For use in excretory urography; aortography; pediatric angiocardiography; and peripheral arteriography.

SODIUM DIATRIZOATE 35 PERCENT AND MEGLUMINE DIATRIZOATE 34.5 PERCENT INJECTION

For use in excretory urography; aortography; pediatric angiocardiography; and peripheral arteriography.

MEGLUMINE DIATRIZOATE INJECTION—85 PERCENT

For use in angiocardiography and thoracic aortography.

MEGLUMINE DIATRIZOATE 40 PERCENT AND MEGLUMINE IODIPAMIDE 20 PERCENT

For use in hysterosalpingography.

SODIUM ACETRIZOATE STERILE SOLUTION—30 PERCENT

For use in retrograde pyelography and cystography.

SODIUM ACETRIZOATE STERILE SOLUTION—50 PERCENT

For use in urethrography.

SODIUM DIATRIZOATE 37 PERCENT AND SODIUM DIPROTRIZOATE 31 PERCENT INJECTION

For use in angiocardiography.

SODIUM DIPROTRIZOATE INJECTION—50 PERCENT

For use in excretory urography.

IOPANOIC ACID TABLETS

For use in oral cholecystography. It may also be use for oral cholangiography, although it is not considered the method of choice.

MEGLUMINE DIATRIZOATE ORAL SOLUTION OR SODIUM DIATRIZOATE ORAL SOLUTION AND POWDER.

For use in radiographic examination of the gastrointestinal tract following oral or rectal administration.

SODIUM DIATRIZOATE INJECTION—50 PERCENT

For use in excretory urography; cerebral and peripheral angiography; aortography; intraosseous venography; direct cholangiography; hysterosalpingography; and splenoportography.

SODIUM DIATRIZOATE INJECTION—20 PERCENT

For use in retrograde pyelography.

SODIUM DIATRIZOATE AND MEGLUMINE DIATRIZOATE—75 PERCENT OR 90 PERCENT

For use in angiocardiography; aortography; angiography; and urography.

For 90 percent add: Hysterosal- pingography.

IOPYDONE AND IOPYDOL SUSPENSION

For use in bronchography.

ETHIODIZED OIL

For use in hysterosalpingography.

SODIUM ACETRIZOATE AND POVIDONE

For use in hysterosalpingography.

IOPHENDYLATE INJECTION

For use in myelography.

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 April 18, 1978, the holder of the application submits, if he has not previously done so, (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 (212 CFR 314.1(c)).

b. Approval of an abbreviated new drug application (21 CFR 314.1 (f)) must be obtained prior to marketing such product. The abbreviated application shall include full manufacturing information as required by items 6 (components), 7 (composition), and 8 (methods, facilities, and controls) of new drug application form FD-356H (21 CFR 314.1 (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.

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: February 7, 1978.

J. RICHARD CROUT,
Director, Bureau of Drugs.

[FR Doc. 78-4203 Filed 2-16-78; 8:45 am]

[4110-03]

[Docket No. 75N-0373]

DIAMOND SHAMROCK CHEMICAL CO. ET AL.

Penicillin-Streptomycin-Vitamin Soluble Powder; Denial of Requests for a Hearing and Withdrawal of New Animal Drug Applications

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) denies a hearing and withdraws approval of all new animal drug applications (NADA's) for penicillin, streptomycin, vitamin soluble powder.

DATES: Effective February 17, 1978.

FOR FURTHER INFORMATION CONTACT:

Donald Gable, Bureau of Veterinary Medicine (HFV-100), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4313.

SUPPLEMENTARY INFORMATION: A notice of opportunity for hearing was published in the FEDERAL REGISTER of July 9, 1976 (41 FR 28340), proposing to withdraw approval of the following NADA's for penicillin, streptomycin, vitamin soluble powders:

NADA 65-303; Nopstress with penicillin, and streptomycin; NADA 65-323; A-V 25 with Vitamins. Diamond Shamrock Chemical Co., Diamond Shamrock Corp., Nutrition and Animal Health Division, 1100 Superior Ave., Cleveland, Ohio. 44114 (hereinafter Diamond Shamrock).

NADA 65-296; FloxAid 50 and FloxAid 128; NADA 65-308, NADA 65-309, NADA 65-310, NADA 65-311, NADA 65-312, NADA 65-370, NADA 65-371, NADA 65-372, NADA 65-373; penicillin, streptomycin, Vitamin Mixtures. Merck Chemical Division, Merck and Co., Inc., Rahway, N.J. 07065 (hereinafter Merck).

NADA 65-104; VSP Concentrate Extra. Anchor Serum Co., Philips-Roxane, Inc., St. Joseph, Mo. 64502.

NADA 65-298; Medic Aid Soluble. Salsbury Laboratories, Charles City, Iowa. 50616 (hereinafter Salsbury).

NADA 65-376; Vita-Lizer SP; NADA 65-377; Vita-Lizer SP 4. Vineland Laboratories, Inc., Vineland, N.J. 08360.

NADA 65-295; Whitmoyer A-V 25. Whitmoyer Laboratories., Inc., Subsidiary of Rohm & Haas Co., Myerstown, Pa. 17067.

The notice stated that the Director of the Bureau of Veterinary Medicine proposed to issue an order under section 512(e) of the Federal Food, Drug, and Cosmetic Act and under section 108(b) of Pub. L. 90-399 withdrawing approval of the products subject to the notice because new information before him about the drug products, evaluated together with the evidence available to him at the time of the approval of the products, shows there is a lack of substantial evidence that the drug products will have the effect they purport or are represented to have under the conditions of use prescribed, recommended, or suggested in the labeling in that there is a lack of evidence that these products are effective as fixed combination drugs.

The Director based his proposed action on the conclusions of the Food and Drug Administration (FDA) and National Academy of Sciences—National Research Council (the Academy) and Drug Efficacy Study Group, relating to certain penicillin, streptomycin, vitamin combination drugs for use in animal drinking water. These conclusions were published in the FEDERAL REGISTER of July 22, 1970 (35 FR 11706, DESI 0063NV; 35 FR 11707, DESI 0122NV).

The Academy classified Whitmoyer A-V 25, FloxAid BF, and FloxAid AWP as probably not effective for their intended use, and the FDA concurred in its findings. The Academy stated in part:

1. Substantial evidence was not presented to establish that each ingredient designated as active makes a contribution to the total effect claimed for the drug combination.

2. The disease claims for streptomycin must be restricted to diseases involving the gastrointestinal tract because of the chemical and pharmacological properties of streptomycin sulfate.

3. Each disease claim should be properly qualified as appropriate for use in (name of disease) caused by pathogens sensitive to penicillin and streptomycin. If the disease cannot be so qualified, the claim must be dropped.

4. Claims made "for prevention of" or "to prevent" should be replaced with "as an aid in the control of" or "to aid in the control."

5. The manufacturer's label should warn that treated animals must actually consume enough medicated water to provide a therapeutic dose under the conditions that prevail. As a precaution, the label should state the desired oral dose per unit of animal weight per day for each species as a guide to effective use of the preparations in drinking water.

Similar conclusions pertaining to analogous penicillin, streptomycin, vitamin combination products, were published in the FEDERAL REGISTER of August 22, 1970 (35FR 13484, DESI 0037NV) and in the FEDERAL REGISTER of August 25, 1970 (35 FR 13538, DESI 0151NV).

These announcements informed all interested persons that the products named must be the subject of approved NADA's, and 6 months were provided in which to submit substantial evidence of efficacy for the products named.

The Director noted in the notice of opportunity for hearing that no interested persons had submitted any data purporting to show substantial evidence based upon adequate and well-controlled investigations that penicillin, streptomycin, vitamin soluble powder will have the effect they are purported or represented to have under the conditions of use prescribed, recommended or suggested in the proposed labeling thereof. He stated that on the basis of all the data and information available to him, he was unaware of any adequate and well-controlled clinical investigation, conducted by experts qualified by scientific training and experience, meeting the requirements of section 512 of the act (21 U.S.C. 360b) and § 514.(b)(8) (21 CFR 514.1(b)(8)), demonstrating the effectiveness of these combination drug products.

Section 512 of the act (21 U.S.C. 360b) requires that a drug have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling. With respect to fixed combination drugs, § 514.1(b)(8)(v) (21 CFR 514.1(b)(8)(v)) requires that each ingredient designated as active in any new animal drug combination make a contribution to the effect in the manner claimed or suggested in the labeling, and, if in the absence of express labeling claims of advantages for the combination such a product purports to be better than either component alone, it must be established that the new animal drug has that purported effectiveness. The requirement of effectiveness includes the requirement that the most effective level for each component be used. In the case of drug combinations for concurrent therapy, the requirement of effectiveness also states that the dosage of each component be such that the combination is safe and effective for a population of significant size specifically described in the labeling as requiring such concurrent therapy.

Pursuant to the notice of opportunity for hearing, Diamond Shamrock, Merck, and Salsbury have each filed a written appearance requesting a hearing for their products subject to the notice.

Merck's submission consisted of three exhibits identified as:

Exhibit A. "Protocol and analysis of data, FloxAid in Chickens."

Exhibit B. "Reduction of Aflatoxin Effects in Quail" Wilson, et al., from *Poultry Science*, 54:923-925, 1975.

Exhibit C. Letter dated June 18, 1976, from Assistant Professor Roger D. Wyatt to Dr. Lanny Howell of Merck, enclosing tables on a study of young broiler chicks conducted at the University of Georgia College of Agriculture. (Aflatoxin-FloxAid experiment)

Also, Merck argued that the action of the Commissioner was without sufficient support in any agency record and that due process of law required the granting of a hearing.

Diamond Shamrock submitted the same article from *Poultry Science*, identified as exhibit B in Merck's submission. In addition, it recommended and requested that outstanding certifications not be cancelled on those batches of products in the market even if its NADA's are withdrawn.

Salsbury stated that it relies on the data submitted by Merck, and Salsbury did not submit any additional data.

The remainder of the firms subjects to the notice of opportunity for hearing failed to file timely written appearance and request for hearing within the 30-day period provided under § 514.200, thus constituting an election by such persons not to avail themselves of the opportunity for a hearing concerning the proposed action and constituting a waiver of any contentions concerning the legal status of any such drug product.

I. THE DRUGS FOR WHICH A HEARING WAS REQUESTED

1. NADA 65-303; Nopstress with penicillin and streptomycin, diamond shamrock, each 5½ oz. contain:

Pencillin (from procaine penicillin).	5 million units.
Streptomycin base (as sulfate).	12.5 g.
Vitamin A	1 million USP units.
Vitamin D_3	200,000 IC units.
Vitamin E	300 IC.
Vitamin B_6 (pyridoxine)	200 mg.
Vitamin B_{12}	1.0 mg.
Folic acid	25 mg.
Ascorbic acid	2 g.
Menadione sodium bisulfite (source of vitamin K).	500 mg.

2. NADA 65-323; A-V 25 with vitamins, diamond shamrock, each pound contains:.

Procaine penicillin	16 million units.
Streptomycin base (from streptomycin sulfate).	35 g.
Vitamin A	1.5 million U.S.P. units.

Vitamin D_3	1.2 million IC units.
Vitamin B_{12}	4.5 mg.
Pyridoxine hydrochloride.	600 mg.
Vitamin E	900 IU.
Niacin	7,500 mg.
Folic acid	400 mg.
Menadione sodium bisulfite complex.	1,600 mg.
Choline bitartrate	7,500 mg.
Sodium benzoate	0.1 pct.

3. NADA 65-296; FloxAid 50 and FloxAid 128, Merck, each pound contains:

Procaine penicillin	20,480,000 units (equivalent to 12.3g penicillin G reference standard).
Streptomycin sulfate oral veterinary (base).	61,440 mg.
Vitamin A	3,227,000 U.S.P. units.
Vitamin D_3	2,048,000 IC units.
Vitamin B_{12} activity	24.6 mg.
Pyridoxine hydrochloride (Vitamin B_6).	1,024 mg.
Menadione sodium bisulfite (source of vitamin K activity).	1,946 mg.
Vitamin E (as di-alpha tocopheryl acetate).	1,440 Int. units.
Folic acid	246 mg.
Choline bitartrate	9,305 mg.

4. NADA 64-308; penicillin-streptomycin vitamin mixture, Merck, each pound contains;

Procaine penicillin	20 million units (equivalent to 12 g penicillin G reference standard).
Streptomycin sulfate oral veterinary (base).	50,000 mg.
Riboflavin	1,000 mg.
d-Pantothenic acids (equivalent to 5,000 mg calcium pantothenate dextrorotatory).	4,600 mg.
Niacin	10,000 mg.
Vitamin B_{12} activity	20 mg.
Vitamin A	2 million U.S.P. units.
Vitamin D_3	1.5 million Int. chick units.
Vitamin E	600 Int. units.
Menadione sodium bisulfite.	1,000 mg.
Choline bitartrate	5,000 mg.

5. NADA 65-309; penicillin-streptomycin-vitamin mixture, Merck, each pound contains:

Procaine penicillin	40 million units (equivalent to 24 g penicillin G reference standard).
Streptomycin sulfate oral veterinary (base).	100,000 mg.
Vitamin A	6 million U.S.P. units.
Vitamin D_3	4 million Int. chick units.
Menadione sodium bisulfite.	4,000 mg.

6. NADA 65-310; penicillin-streptomycin-vitamin mixture, Merck, each pound contains;

Procaine penicillin	20 million units (equivalent to 12 g penicillin G reference standard).
Streptomycin sulfate oral veterinary (base).	50,000 mg.
Vitamin A	3 million U.S.P. units.
Vitamin D_3	2 million Int. chick units.
Menadione sodium bisulfite.	2,000 mg.

7. NADA 65-311; penicillin-stremtomycin-vitamin mixture, Merck, each pound contains:

Procaine penicillin	15,750,000 units (equivalent to 9.45 g penicillin G reference standard).
Streptomycin sulfate oral veterinary (base).	36,000 mg.
Riboflavin	3,600 mg.
d-Pantothenic acid (equivalent to 5,400 mg calcium pantothenate dextrorotatory).	4,968 mg.
Niacin	13,000 mg.
Vitamin B_{12} activity	9 mg.
Vitamin A	900,000 U.S.P. units.
Vitamin D_3	900,000 Int. chick units.

8. NADA 65-312; penicillin-streptomycin-vitamin mixture, Merck, each pound contains:

Procaine penicillin	10 million units (equivalent to 6 g penicillin G reference standard).
Streptomycin sulfate oral veterinary (base).	30,000 mg.
Riboflavin	1,000 mg.
d-Pantothenic acid (equivalent to 1,500 mg. calcium pantothenate dextrorotatory).	1,380 mg.
Niacin	5,000 mg.
Vitamin B_{12} activity	3.2 mg.
Vitamin A	1.5 million U.S.P units.
Vitamin D_3	500,000 Int. chick units.
Vitamin E	600,000 Int. units.
Menadione sodium bisulfite.	1,000 mg.
Pyridoxine hydrochloride.	600 mg.
Folic acid	246 mg.

9. NADA 65-370; penicillin-streptomycin-vitamin mixture, Merck, each pound contains:

Procaine Penicillin	15 million units (equivalent to 9 g. penicillin G reference standard).
Streptomycin sulfate oral veterinary (base).	37,500 mg.
Riboflavin	450 mg.
d-Pantothenic acid (equivalent to 750 mg. calcium pantothenate dextrorotatory).	690 mg.
Niacin	1,500 mg.
Vitamin B_{12} activity	1.5 mg.
Vitamin A	1,125,000 U.S.P. units.
Vitamin D_3	750,000 Int. chick units.
Vitamin E	225 Int. units.
Menadione sodium bisulfite.	1,500 mg.
Pyridoxine hydrochloride.	225 mg.
Folic acid	45 mg.

10. NADA 65-371; penicillin-streptomycin-vitamin mixture, Merck, each pound contains:

Procaine Penicillin	20 million units (equivalent to 12 g. penicillin G reference standard).
Streptomycin sulfate oral veterinary (base).	50,000 mg.
Riboflavin	600 mg.
d-Pantothenic acid (equivalent to 1,000 milligrams calcium pantothenate dextrorotatory.	920 mg.
Niacin	2,000 mg.
Vitamin B_{12} activity	2 mg.
Vitamin A	1.5 million U.S.P. units.
Vitamin D_3	1 million Int. chick units.
Vitamin E	300 Int. units.
Menadione sodium bisulfite.	2,000 mg.
Pyridoxine hydrochloride.	300 mg.
Folic acid	60 mg.

11. NADA 65-372; penicillin-streptomycin-vitamin mixture, Merck, each pound contains:

Procaine Penicillin	15 million units (equivalent to 9.3 g. penicillin G reference standard).
Streptomycin sulfate oral veterinary (base).	45,600 mg.
Riboflavin	1,500 mg.
d-Pantothenic acid (equivalent to 3,000 milligrams calcium pantothenate dextrorotatory.	2,760 mg.
Niacin	6,000 mg.
Vitamin B_{12} activity	6 mg.
Vitamin A	1.5 million U.S.P. units.
Vitamin D_3	1,125,000 Int. chick units.
Vitamin E	900 Int. units.
Menadione sodium bisulfite.	1,500 mg.
Pyridoxine hydrochloride.	900 mg.
Folic acid	180 mg.

12. NADA 65-373; penicillin-streptomycin-vitamin mixture, Merck, each pound contains:

Procaine Penicillin	20,667,000 units (equivalent to 12.4 g. penicillin G reference standard).
Streptomycin sulfate oral veterinary (base).	60,800 mg.
Riboflavin	2,000 mg.
d-Pantothenic acid (equivalent to 4,000 mg. calcium pantothenate dextrorotatory.	3,680 mg.
Niacin	8,000 mg.
Vitamin B_{12} activity	8.0 mg.
Vitamin A	2 million U.S.P. units.
Vitamin D_3	1.5 million Int. chick units.
Vitamin E	1,200 Int. units.
Menadione sodium bisulfite.	2,000 mg.
Pyridoxine hydrochloride.	1,200 mg.
Folic acid	225 mg.

13. NADA 65-298; medic aid soluble, Salsbury, each 4 oz. contain:

Penicillin (from procaine penicillin).	5 million units.
Streptomycin base (from steptomycin sulfate).	12,500 mg.
Vitamin A	750,000 mg.
Vitamin D_3	500,000 I.C. units.
Vitamin K (menadione sodium bisulfite).	500 mg.

II. Recommended Uses

(1) NADA 65-303; Nopstress with Penicillin and Streptomycin, Diamond Shamrock, is labeled for use in chickens and turkeys for the prevention and treatment of chronic respiratory disease (air-sac infection) and bluecomb (nonspecific infectious enteritis) and the treatment of infectious sinusitis. It is not for use in laying chickens or turkeys.

(2) NADA 65-323; A-V 25 with Vitamins, Diamond Shamrock, is labeled to be used for repackaging purposes only.

(3) NADA 65-296; FloxAid 50 and FloxAid 128, Merck, is labeled for use in chickens for the prevention and treatment of chronic respiratory disease (air-sac infection) and bluecomb (nonspecific infectious enteritis). It is also labeled for use in turkeys for the prevention and treatment of bluecomb (mud fever) and infectious sinusitis. It is not for use in laying chickens or turkeys.

NADA 65-308, NADA 65-309, NADA 65-310, NADA 65-311, NADA 65-312, NADA 65-370, NADA 65-371, NADA 65-372, NADA 65-373; Penicillin-Streptomycin Vitamin Mixtures, Merck. Each mixture is labeled for use in the manufacture of medicated livestock drinking water preparations.

(5) NADA 65-298; Medic Aid Soluble, Salsbury, is labeled for use in chickens for prevention and treatment of CRD (chronic respiratory disease, air-sac infection) and bluecomb (nonspecific infectious enteritis). It is also labeled for use in turkeys for the treatment of infectious sinusitis and bluecomb (nonspecific infectious enteritis). It is not intended for use in laying chickens or turkeys.

III. Effectiveness

The deficiency in each of the NADA's, as stated in the notice of opportunity for hearing, is its failure to include data establishing that the drug will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling. In respect to fixed combination drugs, § 514.1(b)(8)(v) requires:

> • • • Each ingredient designated as active in any new animal drug combination must make a contribution to the effect in the manner claimed or suggested in the labeling, and, if in the absence of express labeling claims of advantages for the combination such a product purports to be better than either component alone, it must be established that the new animal drug has that purported effectiveness.

This provision constitutes the basis for evaluation of fixed combination drugs. It is based, in part, on the fact that no active drug is entirely safe under all circumstances. Where more than one drug is combined into a treatment entity, it is important to assure that each component has therapeutic value. If each component cannot be proven to have therapeutic value, an unjustified risk of harm results. In addition to the increased safety risks, each needless component adds unjustified expense to the consumer. Therefore, no ingredient should be allowed to "go along for the ride" as excess baggage in a combination drug product.

This reasoning applies to both animal drugs and human drugs. Many animal drugs have human and animal safety considerations. Humans are indirectly affected in that residues of such drugs may contaminate human food derived from treated animals. Also, animal drugs can have economic and nutritional impacts on the human food supply depending on whether and how they cure sick animals. For these reasons, the combination policy applies to animal drugs.

IV. Data Submitted in Support of Request for a Hearing

Merck's Exhibit A, "Protocol and analysis of data, FloxAid in Chickens," consists of a study that attempts to evaluate the influence of FloxAid on the incidence of necrotic enteritis in floor-reared broiler-type chickens. "Necrotic enteritis" is similar to one of the label claims for FloxAid for chickens. No data were submitted for the other recommended uses in chickens and turkeys. The review and comments on the data concerning the effectiveness of FloxAid on the incidence of necrotic enteritis in chickens by the statistician for Merck admits that:

> The Mortality due to necrotic enteritis was 8.2 percent on placebo treatment and 5.6 percent on Floxaid for a 32 percent reduction due to Floxaid. This difference was not significant at the 5 percent level.

In addition, no data were submitted as a basis for determining the contribution of each active ingredient for this fixed combination. For these reasons the Commissioner does not consider this a valid study to support a request for a hearing.

Merck's Exhibit B is a copy of a published article from *Poultry Science*, 1975, entitled "Reduction of Aflatoxin Effects on Quail." This article was also submitted by Diamond Shamrock in support of its request for a hearing. But penicillin, streptomycin, vitamin soluble powders are not approved for use in quail, and they are not labeled for any claims of efficacy relating to the prevention or treatment of aflatoxicosis. Therefore, the results of this study are not relevant as to whether penicillin, streptomycin, vitamin soluble powders are effective as fixed combinations for their approved uses.

Merck's Exhibit C consists of tables derived from a study conducted at the University of Georgia, referred to as the "Aflatoxin-Floxaid" experiment. The tables summarize the effect of dietary aflatoxin and FloxAid on feed efficiency of young broiler chicks. Penicillin, streptomycin, vitamin soluble powders do not have any approved claims of efficacy relating to aflatoxicosis. Therefore, the results of this study are not relevant as to whether penicillin, streptomycin, vitamin soluble powders are effective as fixed combinations for their approved uses.

V. Due Process of Law

Merck alleged in its request for a hearing that the proposed action of the Commissioner was without sufficient support in any agency record. Merck stated that "the drastic move of the revocation of an effective new animal drug application must and should be based upon an adequate record in order to meet the basic requirements of due process of law." The Commissioner concludes that adequate documentation recording previous actions does exist and that Merck has been given reasonable and adequate notice leading to this withdrawal action and has had sufficient opportunity to respond.

The history of previous actions began with the publication of the conclusions of FDA and the Academy relating to FloxAid, published in the Federal Register of July 22, 1970 (35 FR 11706). FloxAid was evaluated as probably not effective for its intended purpose, and a period of 6 months was provided in which to submit substantial evidence of efficacy. In response, Merck submitted revised labeling and changed the product name. The Food and Drug Administration responded that revised labeling alone did not meet the Academy requirements and that substantial evidence of effectiveness for each claim in each species was needed. A lengthy series of correspondence ensued between the firm and FDA; however, no data purporting to establish substantial evidence of effectiveness were submitted. A proposal to revoke the certification monograph for the use of penicillin, streptomycin combination in animal drinking water was published in the Federal Register of January 10, 1973 (38 FR 1219). In response, Merck requested that the certification monograph not be revoked and cited a chronology of the considerable correspondence between Merck and FDA pertaining to the product. Again, correspondence ensued between the firm and FDA; however, no data purporting to establish substantial evidence of effectiveness were submitted.

The record establishes that Merck had notice and understood that substantial evidence of effectiveness was required to maintain approval for their penicillin, streptomycin, vitamin soluble powders. Merck has had opportunity to respond and has failed to submit substantial evidence of effectiveness. Therefore, the Commissioner concludes that the requirements of due process of law have been met.

VI. Request That Outstanding Certifications Not Be Canceled on Batches of Product in the Market

Diamond Shamrock recommended and requested that the outstanding certifications not be canceled on those batches of product in the market even if its NADA's were withdrawn. Diamond Shamrock stated:

(1) Cancellation is unnecessary in that no hazard does or will remain to human health.

(2) All ingredients in the products have been used for many years without significant evidence of hazard.

(3) There is no problem relative to safety to the subject target species.

(4) The products were approved for marketing under a Form 6 prior to

regulations concerning fixed antibiotic combinations.

(5) It would constitute unnecessary destruction of harmless materials.

The Commissioner concludes that the basis for withdrawing these products is lack of data showing that they are effective as fixed combinations. Therefore, the Commissioner will not ban the continued marketing of penicillin, streptomycin, vitamin soluble powders that have been certified before February 17, 1978.

VII. FINDINGS

The Commissioner finds that there is no genuine and substantial issue of fact that requires a hearing because no interested persons have submitted any data based upon adequate, well-controlled investigations, within the meaning of 21 CFR 514.111(a)(5), that demonstrate that penicillin, streptomycin, vitamin soluble powders are effective as fixed combinations within the meaning of 21 CFR 514.1(b)(8)(v). Accordingly, the Commissioner finds that, on the basis of new information before him, evaluated together with the evidence available at the time of the approval of the products, there is a lack of substantial evidence that these products will have the effect they purport or are represented to have under the conditions of use prescribed, recommended, or suggested in the labeling in that there is a lack of evidence that they are effective as fixed combinations.

Additionally, certification services should be terminated for all penicillin, streptomycin, vitamin soluble powders including those NADA's identified for use in the manufacture of medicated livestock drinking water preparations.

The Commissioner has carefully considered the environmental effects of the proposed regulation and, because the proposed action will not significantly affect the quality of the human environment, has concluded that an environmental impact statement is not required. A copy of the environmental impact assessment is on file with the Hearing Clerk, Food and Drug Administration.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 512, 701, 52 Stat. 1055-1056 as amended, 82 Stat. 343-351 (21 U.S.C. 360b, 371)) and the Animal Drug Amendments of 1968 (sec. 108(b), 82 Stat. 353) and under authority delegated to him (21 CFR 5.1), the Commissioner hereby orders, based on the findings stated above:

(1) That the request for hearing made by Diamond Shamrock, Merck, and Salsbury on the withdrawal of approval of their NADA's for penicillin, streptomycin, vitamin soluble powders is hereby denied.

(2) That approvals of the new animal drug applications:

NADA 65-303, Nopstress with Penicillin and Streptomycin; NADA 65-323, A-V 25 with Vitamins, Diamond Shamrock Chemical Co., Diamond Shamrock Corp., Nutrition and Animal Health Division, 1100 Superior Avenue., Cleveland, Ohio 4414.

NADA 65-296, FloxAid 50 and FloxAid 128; NADA 65-308, NADA 65-309, NADA 65-310, NADA 65-311, NADA 65-312, NADA 65-370, NADA 65-371, NADA 65-372, NADA 65-373, Penicillin-Streptomycin Vitamin Mixtures, Merck Chemical Division, Merck and Co., Inc., Rahway, N.J. 07065;

NADA 65-104, VSP Concentrate Extra, Anchor Serum Co., Philips-Roxane, Inc., St. Joseph, Mo. 64502;

NADA 65-298, Medic Aid Soluble, Salsbury Laboratories, Charles City, Iowa 50616;

NADA 65-376, Vita-Lizer SP, NADA 65-377, Vita-Liza SP 4, Vineland Laboratories, Inc.,Vineland, N.J. 08360; and NADA 65-295, Whitmoyer A-V 25, Whitmoyer Laboratories, Inc., Subsidiary of Rohm & Haas Co., Myerstown, Pa. 17067 are hereby withdrawn; effective February 17, 1978.

(3) That no further certification of batches of these drugs will be made. This termination of certification services applies to batches submitted for certification but not yet certified, as well as to batches not yet submitted.

A regulation revoking the certification provisions (21 CFR 540.174b) for the products identified in this notice is issued elsewhere in this issue of the FEDERAL RESISTER.

Dated: February 7, 1978.

SHERWIN GARDNER,
Acting Commissioner of Food and Drugs.

[FR Doc. 78-4204 Filed 2-16-78; 8:45 am]

[4110-03]

[Docket No. 76N-0059; DESI 5798]

OXIDIZED CELLULOSE PREPARATIONS

Drugs for Human Use; Drug Efficacy Study Implementation; Amended Followup Notice

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice amends the previous notice on oxidized cellulose preparations by stating that these drugs are also effective for use in oral surgery and exodontia. This indication was inadvertently omitted from the previous notice.

DATES: Supplements to approved NDA's due on or before April 18, 1978.

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: A notice published in the FEDERAL REGISTER on July 12, 1977 (42 FR 35895), reclassified the oxidized cellulose preparations as effective for use as hemostatic adjuncts and stated the effective indication for use in surgical procedures, but inadvertently did not state its effective indication for use in oral surgery and exodontia. Accordingly, that notice is amended by adding the following indication under B.2.b. *Labeling conditions.*

"For use in oral surgery and exodontia."

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: February 7, 1978.

J. RICHARD CROUT,
Director, Bureau of Drugs.

[FR Doc. 78-4202 Filed 2-16-78; 8:45 am]

[4110-03]

[Docket No. 78N-0043]

NEW POLICY CONCERNING DRUGS ALLOWED TO REMAIN ON MARKET PENDING COMPLETION OF STUDIES OF EFFECTIVENESS ("PARAGRAPH XIV" DRUGS)

AGENCY: Food and Drug Administration (FDA).

ACTION: Notice.

SUMMARY: This notice announces a new policy governing conditions for marketing prescription drug products that have been allowed to remain on the market pending completion of scientific studies to determine their effectiveness. The new policy allows a drug to remain on or enter the market, under certain conditions, whether or not its manufacturer is conducting clinical studies on that particular drug product, as long as some manufacturer is conducting the necessary clinical studies on a drug product to which the same conclusions about effectiveness would ultimately apply.

FOR FURTHER INFORMATION CONTACT:

Robert H. Hahn, 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: A notice was published in the FEDERAL REGISTER of December 14, 1972 (37 FR 26623), informing manufacturers of prescription drugs for human use of

the future schedule for implementing the drug efficacy study. The notice listed certain drugs, together with the justification for their medical need, that were exempted from the time limits described in the notice and could remain on the market while studies were undertaken to determine whether the drugs are effective. These are known as "Paragraph XIV" drugs. As provided for by that notice, other drugs have since been added to the list.

It has been the past policy of FDA that, in order for a given drug product to remain on the market under this exemption, the drug's manufacturer must conduct or participate in clinical studies applicable to that particular product.

In the interest of minimizing duplicative and costly clinical testing of essentially the same drug product, which places a burden on already overloaded and scarce clinical testing resources without necessarily contributing to the quality of evidence required to establish the drug's effectiveness, the Commissioner of Food and Drugs now concludes that each manufacturer need not clinically test its own product as long as at least one other manufacturer, or a consortium of manufacturers, is conducting tests on a product to which the same effectiveness conclusions would ultimately apply. This decision is compatible with the FDA policy with respect to over-the-counter drugs classified as Category III (i.e., insufficient data exist to permit final classification at this time). The policy now adopted includes the requirement of an abbreviated new drug application for each such product on the market that is not the subject of a new drug application.

When necessary, to implement this new policy, notices concerning specific drug groups now in paragraph XIV, which will include timetables for submission and conditional approval of abbreviated new drug applications, will be published in forthcoming issues of the FEDERAL REGISTER.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 505, 701, 52 Stat. 1052-1053, as amended, 1055-1056, as amended (21 U.S.C. 355, 371)), the Administrative Procedure Act (5 U.S.C. 553, 554), and under the authority delegated to the Commissioner (21 CFR 5.1).

Dated: February 15, 1978.

SHERWIN GARDNER,
Acting Commissioner of Food and Drugs.

[FR Doc. 78-4516 Filed 2-15-78; 11:57 am]

[4110-08]

National Institutes of Health

CANCER CONTROL TREATMENT, REHABILITATION AND CONTINUING CARE REVIEW COMMITTEE

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Cancer Control Treatment, Rehabilitation and Continuing Care Review Committee, National Cancer Institute, March 23, 1978, Building 31C, Conference Room 10, 9000 Rockville Pike, Bethesda, Md. 20014. Except as noted below, this meeting will be open to the public on March 23, 1978, from 8:30 a.m. to 12 noon, to review contracts from ABT Associates, Inc., Boston, Mass., on the measurements of the cost of cancer care; from Johns Hopkins University, Baltimore, Md., on comprehensive cancer centers communications network, and from the American College of Surgeons, Chicago, Ill. on national cancer consultative programs for hospitals. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in section 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public approximately three times for approximately fifteen minutes each time to discuss personal information concerning individuals associated with each contract. In addition, and in accordance with the provisions set forth in section 552(b)(c)(4) and 552(b)(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on March 23 from 1 p.m. to adjournment, for the review, discussion, and evaluation of an individual contract proposal. This proposal and the discussions of the proposal could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the proposal.

Mrs. Marjorie F. Early, Committee Management Officer, National Cancer Institute, Building 31, Room 4B43, National Institutes of Health, Bethesda, Md. 20014, 301-496-5708, will provide a summary of the meeting and a roster of committee members, upon request.

Dr. Carlos E. Caban, Executive Secretary, National Cancer Institute, Blair Building, Room 7A07, National Institutes of Health, Bethesda, Md. 20014, 301-427-7941 will furnish substantive program information.

(Catalog of Federal Domestic Assistance Number 13.399, National Institutes of Health.)

Dated: February 9, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc. 78-4099 Filed 2-16-78; 8:45 am]

[4110-08]

CLINICAL TRIALS REVIEW COMMITTEE

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the Clinical trials Review Committee, National Heart, Lung, and Blood Institute, March 27, 1978, Building 31C, Conference Room 7, National Institutes of Health, Bethesda, Md.

This meeting will be open to the public from 8:30 a.m. to 12 noon on March 27, 1978, for an orientation of new members and to discuss administrative details and other committee business. Also, there will be a report concerning the current status of the National Heart, Lung, and Blood Institute and a discussion of National Heart, Lung, and Blood Institute Clinical Trials programs with program division representatives. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on March 27, 1978, from 12 noon to adjournment for the review, discussion, and evaluation of an individual grant application. This application and the discussion could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the application.

Mr. York Onnen, Chief, Public Inquiries and Reports Branch, NHLBI, National Institutes of Health, Building 31, Room 5A-03, 301-496-4236, will provide summaries of the meeting and rosters of the committee members. Dr. Fred P. Heydrick, Chief, Research Contracts Review Section, Division of Extramural Affairs, NHLBI, Westwood Building, Room 548B, 301-496-7363, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.837, National Institutes of Health.)

Dated: February 9, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc. 78-4100 Filed 2-16-78; 8:45 am]

[4110-08]

CLINICAL TRIALS REVIEW COMMITTEE

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Clinical Trials Review Committee, National Heart, Lung, and Blood Institute, March 9-10, 1978, at the Disneyland Hotel, in the Cerritos Room, Anaheim, Calif.

This meeting will be open to the public from 8 p.m. to 8:30 p.m. on March 9, 1978, to discuss administrative details and to hear a report concerning the current status of the National Heart, Lung, and Blood Institute. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on March 9, 1978, from 8:30 p.m. to adjournment and from 8:30 a.m. to adjournment on March 10, 1978, for the review, discussion, and evaluation of individual contract proposals. These proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the proposals.

Mr. York Onnen, Chief, Public Inquiries and Reports Branch, NHLBI, National Institutes of Health, Building 31, Room 5A-03, 301-496-4236, will provide summaries of the meeting and rosters of the committee members. Dr. Fred P Heydrick, Chief, Research Contracts Review Section, Division of Extramural Affairs, NHLBI, Westwood Building, Room 548B, 301-496-7363, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.837, National Institutes of Health.)

Dated: February 9, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc. 78-4096 Filed 2-16-78; 8:45 am]

[4110-08]

GENERAL RESEARCH SUPPORT PROGRAM ADVISORY COMMITTEE

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the General Research Support Program Advisory Committee, Division of Research Resources, March 14 and 15, 1978, in Conference Room 9, Building 31-C, National Instituties of Health, Bethesda, Md. 20014.

The meeting will be open to the public from 9 a.m. to 11 a.m. on March 14 to discuss administrative matters relating to the Biomedical Research Support Program and the Biomedical Research Development Program.

In accordance with provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on March 14, 1978, from 11 a.m. to 5 p.m. and on March 15 from 9 a.m. to adjournment, for the review, discussion, and evaluation of individual grant applications submitted to the Biomedical Research Development Program. These applications and discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications.

Mr. James Augustine, Information Officer, Division of Research Resources, Building 31, Room 5B-13, National Institutes of Health, Bethesda, Md. 20014, 301-496-5545, will provide summaries of the meeting and rosters of the committee members. Dr. Sidney A. McNairy, Jr., Excutive Secretary of the General Research Support Program Advisory Committee, Room 5B-31, Building 31, National Institutes of Health, Bethesda, Md. 20014, 301-496-6743, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Programs No. 13.337, National Institutes of Health.)

Dated: February 9, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc. 78-4097 Filed 2-16-78; 8:45 am]

[4110-08]

HEART, LUNG, AND BLOOD RESEARCH REVIEW COMMITTEE A

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Heart, Lung, and Blood Research Review Committee A, National Heart, Lung, and Blood Institute, March 31, April 1, 1978, National Institutes of Health, Building 31, Wing C, Conference Room 9, Bethesda, Md.

This meeting will be open to the public on March 31, 1978 from 8:30 am to approximately 9:30 am to discuss administrative details and to hear reports concerning the current status of the National Heart, Lung, and Blood Institute. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in section 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on March 31, 1978 from 9:30 am until the adjournment on April 1, 1978, for the review, discussion, and evaluation of individual grant applications. these applications and the discussions could reveal personal information concerning individuals associated with the applications.

Mr. York E. Onnen, Chief, Public Inquiries and Reports Branch, NHLBI, NIH, Room 5A03, Building 31, Bethesda, Md. 20014, phone 301-496-4236, will provide summaries of the meeting and rosters of the committee members. Dr. Arthur W. Merrick, Executive Secretary, NHLBI, NIH, Room 552, Westwood Building, Bethesda, Md. 20014, phone 301-496-7917, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.837, 13.828, National Institutes of Health.)

Dated: February 9, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc. 78-4101 Filed 2-16-78; 8:45 am]

[4110-08]

VISION RESEARCH PROGRAM COMMITTEE

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Vision Research Program Committee, National Eye Institute, March 16 and 17, 1978, Building 31, Conference Room 8, National Institutes of Health, Bethesda, Md.

This meeting will be open to the public on Thursday, March 16, from 8:30 a.m. to 10:00 a.m. for opening remarks and discussion of program guidelines. Attendance by the public will be limited to space available.

In accordance with provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public from 10 a.m. on March 16 until adjournment on March 17 for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications.

Mr. Julian Morris, Chief, Office of Program Planning and Scientific Reporting, will provide summaries of meetings and rosters of committee members.

Dr. Thomas O'Brien, Chief, Scientific Programs Branch, Extramural and Collaborative Programs, National Eye Institute, Building 31, Room 6A-47, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.867, 13.868, 13.869, 13.870, and 13.871, National Institutes of Health.)

Dated: February 9, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc. 78-4098 Filed 2-16-78; 8:45 am]

[4110-02]

Office of Education

NATIONAL ADVISORY COUNCIL ON VOCATIONAL EDUCATION

Meeting

AGENCY: National Advisory Council on Vocational Education.

ACTION: Notice of public meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of forthcoming meetings of the National Advisory Council on Vocational Education. It also describes the functions of the Council. Notice of these meetings is required under the Federal Advisory Committee Act (5 U.S.C. Appendix 1, 10(a)(2)). This document is intended to notify the general public of their opportunity to attend.

DATES: March 16-17, 1978.

ADDRESS: Fashion Institute of Technology, 227 West 27th Street, New York, N.Y. 10001.

FOR FURTHER INFORMATION CONTACT:

Virginia Solt, NACVE Staff, 425 13th Street NW., Suite 412, Washington, D.C. 20004, 202-376-8873

The National Advisory Council on Vocational Education is established under section 104 of the Vocational Education Amendments of 1968, Pub. L. 90-576. The Council is directed to:

(A) Advise the Commissioner concerning the administration of, preparation of general regulations for, and operation of vocational education programs supported with assistance under this Title;

(B) Review the administration and operation of vocational education programs under this Title, including the effectiveness of such programs in meeting the purposes for which they are established and operated, make recommendations with respect thereto, and make annual reports of its findings and recommendations (including recommendations for changes in the provisions of this Title) to the Secretary for transmittal to the Congress; and

(C) Conduct independent evaluations of programs carried out under this Title and publish and distribute the results thereof.

The Committees and Task Forces of the Council are as follows:

BOAE Task Force
Technical Assistance Committee
Legislative Committee
MERC Task Force
Task Force on Sex Equity in Vocational Education
Task Force on the Handicapped

Information on meetings which may be planned for any or all of these groups may be obtained by calling the Council office as indicated above.

On March 16, 1978, The National Advisory Council on Vocational Education will meet in regular session from 8:30 to 5 p.m. at the Fashion Institute of Technology in the Conference Room. The following agenda will be included in the meeting:

A.M.

Opening of the Meeting and Introduction of Guests
Report of the Chairman
Report of the Executive Director
Approval of February Minutes
Review of Budget Commitments
Discussion of Other Council Business

P.M.

Reports of Committees and Task Forces
Discussion of Other Council Business (Continued)

The Council Meeting of March 17, 1978, will consist of touring the Fashion Institute of Technology, with briefings by Members of the Staff and Administration, from 8 a.m. to Noon.

Records shall be kept of all Council proceedings and shall be available fourteen days after the meeting for public inspection at the Office of the National Advisory Council on Vocational Education, located at 425 13th Street NW., Suite 412, Washington, D.C. 20004, under 5 U.S.C. 552(b).

Signed at Washington, D.C. on February 9, 1978.

REGINALD E. PETTY,
Executive Director, National Advisory Council on Vocational Education.

[FR Doc. 78-4407 Filed 2-16-78; 8:45 am]

[4110-02]

NATIONAL ADVISORY COUNCIL ON EQUALITY OF EDUCATIONAL OPPORTUNITY

Public Meeting

AGENCY: National Advisory Council on Equality of Educational Opportunity.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the proposed agenda of the forthcoming meeting of the Evaluation Task Force. It also describes the functions of the National Advisory Council. Notice of this meeting is required under the Federal Advisory Committee Act (5 U.S.C., Appendix 1, 10(a)(21)). This document is intended to notify the general public of their opportunity to attend.

DATE AND PLACE OF MEETING: March 4th and 5th, 1978; Cambridge, Mass.

ADDRESS: Hyatt Regency Cambridge, 575 Memorial Drive, Cambridge, Mass.

FOR FURTHER INFORMATION CONTACT:

Rosemarie Maynez, Administrative Assistant, NACEEO, 1325 G Street NW., Suite 710, Washington, D.C. 20005, phone 202-724-0221.

The National Advisory Council on Equality of Educational Opportunity is established under section 716 of the Emergency School Aid Act (Pub. L. 92-318, Title VII, as amended by Pub. L. 93-380 and Pub. L. 94-482). The Council is established to: (1) Advise the Assistant Secretary for Education with respect to the operation of the program authorized under the Emergency School Aid Act (ESAA), including the preparation of regulations and the development of criteria for the approval of applications, and (2) review the operation of the program with respect to its effectiveness in achieving its purpose as stated in the Act and with respect to the Assistant Secretary's conduct in the administration of the program.

The meeting, which is open to the public, will convene at 3:30 p.m. until 6 p.m. on Saturday, March 4, 1978, and reconvene at 7:30 p.m. until 9:30 p.m. On Sunday, March 5, 1978, the meeting will convene at 9:30 a.m. until 12 noon, and reconvene at 1:30 p.m. until 4:30 p.m. The meeting will be held to review the Office of Education's ESAA evaluation studies and to formulate recommendations that will be made to the full Council.

Requests for oral presentations by the public before the Task Force must be submitted in writing to the Executive Director of NACEEO, Mr. Leo A. Lorenzo, and should include the names of all persons seeking an appearance, the party or parties which they represent, and the purpose for which the presentation is requested. Following the presentation, the statement in writing shall be submitted to the Executive Director.

In the event that the tentative agenda is completed prior to the projected time, the Chairman of the Task Force will adjourn the meeting.

Records of all meetings are kept at NACEEO headquarters, 1325 G Street NW., Suite 710, Washington, D.C. 20005, and are available for public inspection.

Signed at Washington, D.C., on February 14, 1978.

LEO A. LORENZO,
Executive Director.

[FR Doc. 78-4411 Filed 2-16-78; 8:45 am]

[4110-02]

NATIONAL ADVISORY COUNCIL ON THE EDUCATION OF DISADVANTAGED CHILDREN

Meeting

Notice is hereby given, pursuant to Pub. L. 92-463, that the next meeting of the National Advisory Council on the Education of Disadvantaged Children will be held on Sunday, March 5 and Monday (site visits), March 6, 1978 in San Diego, Calif. The Council will host its regular meeting on March 5, from 9 a.m.-5 p.m., and will hold site visits on March 6, from 8 a.m.-6 p.m. The Council meeting will be held at the Sheraton Inn-Airport, 1590 Harbor Island Drive, San Diego, Calif. 92101.

The National Advisory Council on the Education of Disadvantaged Children is established under section 148 of the Elementary and Secondary Act (20 U.S.C. 2411) to advise the President and the Congress on the effectiveness of compensatory education to improve the educational attainment of disadvantage children.

The purpose of the meeting is for the full Council to review and adopt the final draft of the 1978 Annual Report.

The entire meeting will be open to the public. Because of limited space, all persons wishing to attend should call for reservations by March 2, 1978, area code 202-724-0114.

Records shall be kept of all Council proceedings and shall be available for public inspection at the Office of the National Advisory Council on the Education of Disadvantaged Children, located at 425 13th Street NW., Suite 1012, Washington, D.C. 20004.

Signed at Washington, D.C. on February 15, 1978.

ROBERTA LOVENHEIM,
Executive Director.

[FR Doc. 78-4556 Filed 2-16-78; 8:45 am]

[4110-85]

Office of the Assistant Secretary for Health

ADVISORY COMMITTEES

Meetings

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following National Advisory bodies scheduled to meet during the month of March 1978:

Name: Health Services Developmental Grants Study Section.
Date and Time: March 1-3, 1978, 9 a.m.
Place: Hyatt Regency Los Angeles, 711 South Hope Street, Los Angeles, Calif. 90017.
Open: March 1, 9 a.m. to 9:30 a.m.
Closed for remainder of meeting.

Purpose. The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Center for Health Services Research.

Agenda. The open session of the meeting on March 1, 1978, will be devoted to a business meeting covering administrative matters and reports. During the closed sessions, the Study Section will be reviewing research grant applications relating to the delivery, organization and financing of health services. The closing is in accordance with provisions set forth in section 552b(c)(6), Title 5, U.S. Code, and the Determination by the Assistant Secretary for Health, pursuant to Pub. L. 92-463.

Anyone wishing to obtain a roster of members, minutes of meetings, or other relevant information should contact Mr. David McFall, National Center for Health Services Research, OASH, Room 7-50A, Center Building, 3700 East-West Highway, Hyattsville, Md. 20782. Telephone 301-436-6916.

Name: Health Care Technology Study Section.
Date and Time: March 6-8, 1978, 9 a.m.
Place: Sheraton-Silver Spring Motor Inn, 8727 Colesville Road, Silver Spring, Md. 20910.
Open: March 6, 9 a.m. to 10 a.m.
Closed for remainder of meeting.

Purpose. The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Center for Health Services Research.

Agenda. The open session of the meeting on March 6, 1978, will be devoted to a business meeting covering administrative matters. The closed portion of the meeting will be utilized in a review of health services research grant applications relating to the delivery, organization, and financing of health services. The closing is in accordance with the provisions set forth in section 552b (c)(6), Title 5, U.S. Code, and the Determination by the Assistant Secretary for Health, pursuant to Pub. L. 92-463.

Anyone wishing to obtain a roster of members, minutes of meetings, or other relevant information should contact Dr. Alan E. Mayers, National Center for Health Services Research, OASH, Room 7-50A, Center Building, 3700 East-West Highway, Hyattsville, Md. 20782, Telephone 301-436-6916.

Name: Health Services Research Study Section.
Date and Time: March 8-9, 9 a.m.
Place: Quorum Room, Sheraton-Silver Spring, 8727 Colesville Road, Silver Spring, Md. 20910.
Open: March 8, 9 a.m. to 10 a.m.
Closed for remainder of meeting.

Purpose. The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Center for Health Services Research.

Agenda. The open session on March 8, 1978, will be devoted to a business meeting covering administrative matters and reports. During the closed session, the study section will be reviewing research grant applications relating to the delivery, organization, and financing of health services. The closing is in accordance with provisions set forth in section 552b(c)(6), Title 5, U.S. Code and the Determination by the Assistant Secretary for Health, pursuant to Pub. L. 92-463.

Anyone wishing to obtain a roster of members, minutes of meetings, or other relevant information should contact Mr. Hoke S. Glover, National Center for Health Services Research, OASH, Room 7-50A, Center Building, 3700 East-West Highway, Hyattsville, Md. 20782, Telephone 301-436-6918.

Agenda items are subject to change as priorities dictate.

NOTE.—Due to the transfer of the above three committees to the Office of the Assistant Secretary for Health and the issuance of subsequent delegations of authority, this notice was delayed.

WAYNE RICHEY, Jr.,
Acting Associate Administrator for Management, Office of Health Policy Research and Statistics.

[FR Doc. 78-4565 Filed 2-16-78; 8:45 am]

[4110-12]

Office of the Secretary

NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS

Annual Operating Plan for FY 1978

This is the Office for Civil Rights' (OCR) fiscal year 1978 Annual Operating Plan. The Plan, set forth in detail in the accompanying narrative and charts, establishes the numbers of complaint investigations, compliance reviews, and the other related activities which will be conducted by the investigative, managerial, and non-clerical support staff of OCR's Headquarters and ten Regional offices.

OCR published a proposed Annual Operating Plan for fiscal year 1978 in the FEDERAL REGISTER on August 5, 1977 (42 FR 39824) and sought comments on the proposal. Twenty-two organizations and individuals submitted comments.

The commentators raised the following issues:

While most supported the concept of a balanced compliance program, several thought that implementation was premature given OCR's current backlog of complaints.

Although none asked for a deletion of activities, the majority asked that

OCR expand its compliance review schedule to include particular types of reviews or to increase the numbers of the reviews. Each group sought greater resource allocations and a higher level of activity for that group.

Several questioned the times used to derive the numbers of activities to be conducted. Most commentators felt that OCR had overestimated the time necessary to investigate complaints and the times cited for certain types of reviews, particularly the equal educational services reviews of the four major city elementary and secondary education systems. At the same time, several commentators suggested that OCR had underestimated the time necessary for the conduct of certain compliance reviews.

Several questioned the omission of monitoring compliance agreements.

Most raised concerns about the intention of the compliance program and questioned specific points raised in the narrative.

Several sought greater detail in the descriptions of headquarters responsibilities, especially in areas of policy development and data collection and analysis.

OCR carefully considered each comment. While OCR understands and is sympathetic with all the concerns raised, it was unable to incorporate each change requested into the final Plan. Changes in the Plan in response to the comments received centered primarily on editing the narrative to clarify points which were misunderstood and to include additional detail where possible in response to commentators' requests.

OCR remains committed to the premises on which the Plan was originally based, specifically the implementation of a balanced compliance program and the initiation of a Department-wide civil rights program. OCR sees this as the only way to be responsive to the broad range of beneficiaries, recipients, and issues for which it is responsible.

Changes were made in the standard times used to calculate the work equivalents for compliance reviews called for by the Plan. The changes were the result of a redefinition of issues and a redefined method of calculation. There were no changes made in the standard times for complaint processing. End of the fiscal year information caused additional changes to the workloads. The most significant changes occurred in complaint workloads. There were shifts between carryover and backlog complaints with carryover increasing and backlog decreasing, but the most dramatic change occurred in expected fiscal year 1978 receipts when end of the year information showed an increase of approximately 1,000 complaints over previous projections (the projections used in the proposed plan were based on data for the first six months of fiscal year 1977). The Plan as published shows expected fical year 1978 receipts of 3334, or 879 more than the 2455 projected in the proposed plan. The compliance review table includes a number of carryover reviews, particularly in the Southern elementary and secondary education and residential health areas which were not reflected earlier. Also, based on end of the year information, the regional offices reexamined the assignment of staff to job functions and consequently the earlier figure of 421.97 investigative staff years available was raised to 453.80 investigative staff years.

Further changes resulted from settlement of *Adams* v. *Califano* and *WEAL* v. *Califano* on December 29, 1977 and *Brown* v. *Califano* on January 10, 1978. The negotiated settlement builds on the balanced compliance program as presented in the proposed Annual Operating Plan. It takes as a base the 55 percent/45 percent split of staff resources between complaint investigations and compliance reviews and calls for the assignment of additional staff resources received through future budget increases to the investigation of complaints.

The major points of the settlement order are as follows:

1. The general framework of the June 14, 1976, *Adams* order is permanently extended beyond the Southern and border states to cover all recipients of Federal funds under all of OCR's enforcement responsibilities. The order sets procedures and timetables for accomplishing OCR's work.

2. Fiscal year 1978 and fiscal year 1979 will be transitional years during which exceptions to the full requirements of the order will occur until the backlog of complaints is eliminated and OCR becomes current on all complaints. The order acknowleges that OCR may not receive the increased staff necessary to eliminate the backlog and become current on all complaints by the end of FY 1979.

3. For the transitional period, and dependent on staff increases, the order establishes the following goals:

(a) The investigation of all fiscal year 1978-identified carryover complaints will be resolved by the end of the second quarter of fiscal year 1979; however, Executive Order 11246 complaints will be resolved by the end of fiscal year 1979.

(b) Eighty per cent of all carryover complaints will be resolved by the end of fiscal year 1978.

(c) All backlogged complaints will be resolved by the end of fiscal year 1979; 5 percent will be resolved by the end of fiscal year 1978.

(d) By the end of fiscal year 1979, OCR will begin processing all incoming complaints under the non-transitional terms of the order.

(e) During fiscal year 1978 OCR will process 120 sex discrimination complaints received during fiscal year 1978.

(f) During fiscal year 1978 OCR will conduct at least 20 compliance reviews and in fiscal year 1979 at least 25 compliance reviews of Area Vocational/Technical Schools and Special Purpose Schools in the seventeen Southern and border states. The fiscal year 1978 emphasis will be on Area Vocational/Technical Schools.

(g) During fiscal year 1978 OCR will conduct at least 15 Title IX compliance reviews in elementary and secondary schools, three or four of which will cover athletics issues.

(h) During fiscal year 1978 OCR will conduct at least 55 on-site-compliance reviews, including pre-award reviews, under the Executive Order.

(i) For both the transition period and thereafter, specific timetables apply to the conduct of complaint investigations and compliance reviews.

(j) During fiscal year 1978 and fiscal year 1979 OCR will conduct surveys of Elementary and Secondary School Systems, Vocational Education Programs and Schools, and Special Purpose Schools. The order establishes requirements for survey data collection and availability.

4. The order applies to both HEW/OCR and the Department of Labor/Office of Federal Contract Compliance with reference to Executive Order 11246.

5. OCR will report semi-annually on the implementation of the order's requirements.

The requirements of the Order have been built into the Plan as now published. The terms of the settlement order account for the majority of the changes in the planned activities for fiscal year 1978.

The Plan reflects only those resources now available to OCR. The Office will issue a supplemental schedule of activities planned for any additional resources authorized during the fiscal year.

Only the national summary tables for complaint investigations and compliance reviews are included with the Plan as published. Copies of region by region tables are available by submitting a request to:

Director, Office for Civil Rights,
Department of Health, Education, and Welfare,
330 Independence Avenue SW.,
Washington, D.C. 20201.

DAVID S. TATEL,
Director,
Office for Civil Rights.

FEBRUARY 14, 1978.

OFFICE FOR CIVIL RIGHTS

ANNUAL OPERATING PLAN FOR FISCAL YEAR 1978

I. Purpose

The Office for Civil Rights (OCR) within the Office of the Secretary is responsible

for assuring that Federally assisted programs are free from unlawful discrimination. The Annual Operating Plan (AOP), represented in the narrative and charts below, describes the compliance and compliance-related activities OCR will undertake in fiscal year 1978 to carry out that responsibility.

II. Jurisdiction

OCR is charged with enforcing the following statutes and executive orders as they relate to the expenditures of HEW funds:

Title VI of the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, color, or national origin in Federally assisted programs and activities;

Title IX of the Education Amendments of 1972, which prohibits discrimination on the basis of sex in Federally assisted education programs;

Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination against qualified handicapped persons on the basis of their physical or mental handicap in Federally assisted programs and activities;

Sections 704 and 855 of the Public Health Service Act, which prohibits discrimination on the basis of sex in admission to health-related training programs funded under the Act;

Executive Order 11246, as amended, which prohibits employment discrimination on the basis of race, color, sex, religion, or national origin and requires affirmative action on the part of Government contractors and subcontractors;

Title VII of the Education Amendments of 1972 (the Emergency School Aid Act or ESAA), which provides aid to desegregation institutions;

Age Discrimination Act of 1975, which prohibits discrimination on the basis of an individual's age in all Federally funded programs.

III. Balanced Compliance Program

OCR has established as its goal for fiscal year 1978 the commencement of a balanced compliance program responsive to the needs of all protected groups served by all institutions and programs over which OCR has jurisdiction. Achievement of this goal requires a distribution of staff resources to specific activities which will insure coverage of all OCR's executive order and statutory authorities and all types of recipients/contractors who are subject to these orders and statutes (e.g., public school districts, colleges and universities, vocational schools and programs, hospitals, and various State and local government agencies receiving Federal financial assistance and/or Federal contracts).

The actions essential to implementing this goal are:

The conduct of post-funding compliance reviews;

The conduct of pre-award and pre-grant reviews;

The investigation of complaints; and

The expansion of the civil rights assurance role of HEW program agencies with respect to all HEW funded Programs.

The fiscal year 1978 Annual Operating Plan lays the ground work for the elimination of the substantial backlog of complaints and the permanent installation of a balanced compliance program. The Plan reflects increases in both efficiencies and resources over the fiscal year 1977 Plan, and Plans for subsequent years will reflect further increases in both these areas.

In fiscal year 1978, OCR will allocate approximately 55% of its investigative staff time to complaint investigations and 45% to compliance reviews. While allocation resources in this manner will not result in an immediate decrease in the overall complaint backlog, it is the only approach which allows OCR the flexibility to conduct compliance reviews designed to address the interests of all intended beneficiaries of the HEW civil rights enforcement program.

This flexibility is essential to a balanced compliance program. Complaints are not representative of all issues over which OCR has jurisdiction, nor are they representative of all protected groups, particularly the poor and the undereducated within these groups. Similarly, mandated pre- and post-award reviews limit the issues and groups covered. This plan, by including OCR selected compliance reviews, reflects OCR's obligation to redress all forms of unlawful discrimination in Federally assisted programs whether or not a complaint has been filed.

OCR's definition of a balanced compliance program as reflected in the fiscal year 1978 Plan does not simply divide the investigative time between complaint investigations and compliance reviews.

Care has been taken in the planning of compliance reviews to assure that issues and statutory beneficiaries which do not receive adequate attention during complaint processing are nevertheless fully considered by OCR. For example, because very few investigations of handicap complaints were initiated prior to issuance of the section 504 regulations, the number of handicap complaints to be investigated (see section IV.A. below) is disproportionately small. Therefore, several special reviews under section 504 have been scheduled.

This approach to OCR's overall compliance responsibilities is consistent with the regulatory requirement to conduct periodic compliance reviews and to investigate all complaints. To better meet these obligations, particularly for processing complaints, during the fiscal year efforts will be made to increase complaint handling efficiency and thereby process more complaints with existing resources. Additionally, the outstanding complaint workload is the basis for the Administration's substantial supplemental budget request for OCR.

The approach to compliance which is the basis for this Plan and the activities called for in the Plan implement the December 29, 1977, consent order in *Adams* v. *Califano* and *WEAL* v. *Califano* and the January 10, 1978 consent order in *Brown* v. *Califano*. The orders provide for the conduct of certain specified activities and establish procedures and timetables for the conduct of all activities. Essentially, the orders extend the June 14, 1976, *Adams* order beyond the seventeen Southern and Border states to all educational institutions throughout the country and to all recipients for whom OCR has jurisdiction under section 504.

In this AOP the number of activities to be conducted is computed on a base of 1,102 positions in fiscal year 1978. Personnel figures cited throughout the Plan indicate professional staff only. The compliance activities are computed as person year equivalents, so that during fiscal year 1978 OCR will expend on each type of activity indicated the person years equivalent to conducting the number of investigations and reviews cited.

IV. Compliance Program

A. Complaint Investigations

A complaint is an allegation that a Government contractor or a recipient of Federal funds has violated one or several of the legal authorities OCR is responsible for enforcing by discriminating against an individual or groups of individuals. OCR will allocate a total of 243.13 investigative person-years to the processing of complaints as shown in the attached Chart 1.

OCR has begun fiscal year 1978 with 3,097 complaints already on hand and expects to receive an additional 3,334 complaints during the fiscal year.

During fiscal year 1978 OCR will concentrate its complaint investigation resources in three areas:

1. Intake: Each complaint received in fiscal year 1978 will be examined to determine whether or not OCR has jurisdiction, whether the complaint is frivolous, or whether it alleges a *per se* violation of law or regulations and thus can be resolved without an investigation. Of the 3,334 projected new receipts, approximately 12 percent or 402 complaints require no investigation and can be closed through an initial screening process. Complaints involving *per se* violations will be resolved as expeditiously as possible. Should an investigation prove necessary, the complaint will be placed in the inventory of complaints to be investigated along with those remaining subsequent to the screening process. The intake process will consume 14.64 person years.

2. Carryover: Of the 3,097 complaints on hand at the beginning of fiscal year 1978, 2,027 were under active investigation on that date. These complaints, labeled carryover to distinguish them from the backlog of 1,070 complaints for which no investigation has been conducted, will have the highest investigative priority. The Plan allocates 201.08 person-years for the disposition of 1,828 of the carryover complaints. The number of carryover complaints disposed of during fiscal year 1978 may be increased depending on the development of policy which is required to complete the processing of approximately one-fourth of the carryover complaints.

3. New Investigations: OCR will open new investigations on a ration of one backlog complaint for two new receipts, selecting complaints within each category in chronological order by their date of receipt. Investigative resources for new investigations will be proportioned by enforcement area (race, sex, national origin, and handicap). For example, if 30 percent of a regional office's backlog complaints and projected new receipts allege racial discrimination, then 30 percent of that office's complaint investigation staff, remaining after the assignment of staff to intake and carryover complaints, will be allocated to the investigation of racial discrimination complaints. The Plan allocates 27.41 person years for projected new receipt and backlog complaints; this time is equivalent to conducting 175 full complaint investigations.

OCR expects to increase the actual numbers of complaints processed by consolidating complaints against a recipient/contractor before starting a backlog or new receipt investigation and investigating to the extent possible all outstanding complaints against a recipient/contractor when conducting an OCR selected compliance review. Since there is no way now of projecting the increased numbers of complaint investigations that will result from consolidating complaints, the numbers of complaints to be investigated shown on the activity charts do not reflect consolidation.

The complaint workload will be reexamined at the close of the first six months of the fiscal year and adjustments made to the schedule and the proportional distribution of resources as necessary at that time. For example, if carryover complaints are completed in less time than now projected and handicap complaints are received in greater numbers than anticipated, adjustments will be made at the close of the second quarter of the fiscal year so that the third and fourth quarters will reflect this new workload.

Major emphasis in fiscal year 1978 will be placed on increasing complaint handling efficiency. Efforts will focus on revised complaint handling procedures, policy articulation, orientation and training, and new approaches to resolving complaints. The expected result is a 30 percent reduction by the end of fiscal year 1978 in the average time required to conduct complaint investigations.

B. Compliance Reviews

In distributing staff to the various activities which come under the broad heading of compliance reviews, priority was given to those reviews which are specifically required by law, which must be performed before funds can be granted, or which were begun prior to the commencement of the fiscal year. The amount of time remaining was distributed to reviews of recipients selected by OCR. OCR will allocate 215.13 person years to the conduct of the compliance reviews shown in the attached chart 2.

1. Mandated Pre- and Post-Funding Activity:

Under Federal law and executive order, OCR is responsible for conducting a variety of pre- and post-funding reviews. Review sites are determined by statute or by other stipulated requirements:

a. During fiscal year 1978, 48.37 person years will be allocated to pre-grant reviews to ensure compliance with the civil rights requirements of section 706 of the Emergency School Aid Act (ESAA). This activity also includes title VI action on ineligible or waiver-denied applicant school districts.

b. Routine health and human development pre-grant clearances relevant to Title VI compliance will require a total of 12.22 person years during fiscal year 1978. The person years are a combination of 7.76 investigative and 4.46 non-investigative professional staff person years.

c. Under Executive Order 11246, OCR is designated a compliance agency by the Department of Labor's Office of Federal Contract Compliance Programs (OFCCP). Consequently, OCR will devote 27.47 person years to the conduct of 67 EO 11246 reviews. These reviews will examine either prospective recipients of Government contracts in excess of $1 million to determine their equal employment compliance status or institutions already receiving contracts to determine their continuing eligibility as Federal contractors.

d. As a part of its continuing obligation under the *Adams* court order, OCR must monitor the desegregation plans of eight formerly dual state systems of higher education, consuming 3.60 person years.

In addition to these four activities, OCR will be working with the HEW principal operating components (POC's) through the new Office of Program Review and Assistance to develop additional uniform, pre-grant review procedures for the Departments's other funding programs.

2. Other Compliance Reviews: Under the Title VI Regulation at § 80.7 (which is applicable also to Title IX and Section 504), OCR is required to initiate post-award investigations of the policies and practices of selected recipients of Federal funds and contractors to determine whether those recipients are in compliance with the legal authorities OCR enforces. Unlike complaint investigations and the pre- and post-funding reviews outlined above, when conducting these reviews, OCR has the freedom to select the site of an investigation, the jurisdiction(s) under which the investigation will be conducted, and the issue(s) the investigation will include. It is with the conduct of these reviews that OCR can balance complaint investigations and site-mandated reviews.

During fiscal year 1978, OCR will devote 123.47 person years to conducting a total of 276 reviews. Of this total, 135 reviews were already in progress on October 1, 1977. This includes 83 on-going elementary and secondary education Title VI reviews (commonly known as Lau reviews) which are specifically aimed at ensuring equal educational opportunity for clients whose predominant language is not English. OCR will also continue the comprehensive reviews of the public school systems in Philadelphia, Chicago, and Los Angeles, and complete the review of the New York City Public School System. In fiscal year 1978, the three ongoing reviews will be refocused and the issues limited to ensure their expeditious completion. Additional carryover reviews include investigations of elementary and secondary education systems, post-secondary institutions, and hospitals. The time remaining is assigned to compliance reviews selected for the fiscal year 1978 Plan. These reviews will be geographically dispersed and, on a national level, will cover a comprehensive range of in all program areas under all jurisdictional authorities. If for some reason a jurisdiction cannot be covered within a review originally intended to include all jurisdictions, an additional review of the same type but covering the previously omitted jurisdiction will be started.

The reviews to be conducted were selected in response to an assesssment of the issues and jurisdictions covered in the complaint investigations and in the mandated pre- and post-award reviews.

The types of recipients and issues to be addressed in these OCR selected reviews include:

Program area	Recipient	Issue
Elementary and secondary education..	State Education agencies (SEA's)	Potential discriminatory impact of all policies affecting the treatment of students and the employment of faculty by Local Education Agencies (LEA's); employment within agency.
	Vocational/technical schools	Admission to schools; admission to programs; employment; accessibility/accommodation.
	Special purpose state administered schools	Admission to schools; accessibility/accommodation; employment.
	Local education agencies (LEA's)	Discipline; language programs; classroom assignment; special education; student assignment; migrant education; accessibility/accommodation; employment; student treatment; extracurricular activities.
Higher education	State education agencies which administer formerly dual systems	Admission; retention; supportive services; policy impact; employment.
	Other State education agencies	Potential discriminatory impact of policies; agency employment.
	Professional schools	Admissions; retention; supportive services; accessibility/accommodation.
	Graduate schools (nonprofessional)	Admissions; accessibility/accommodation; retention; supportive services; student treatment.
	Undergraduate schools	Admissions; retention; accessibility/accommodation; supportive services; student treatment; extracurricular activities.
	Community colleges	Admissions; retention; accessibility/accommodation; supportive services; student treatment; extracurricular activities; employment.
Health and human development	Residential health facilities (e.g., hospitals, nursing homes)	Accessibility; room assignment; delivery/comparability of services.
	Nonresidential health and human development facilities (e.g., family health centers, vocational rehabilitation centers and work shops).	Accessibility; delivery/comparability of services; referrals.
	State and local health and human development agencies	Site selection; policies affecting the location and provision of services; adequacy of monitoring of vendors; adequacy of complaint handling procedures; referrals.
Handicap discrimination	Single facilities (education, health, human development)	Accessibility; accommodation; employment.
	State systems	Policies affecting the location and provision of services; adequacy of monitoring.

V. Support

Conduct of the compliance activities described in IV above requires a variety of regional and headquarters support staff. While, with few exceptions, these staff will not participate directly in the conduct of reviews and investigations, they will provide the management and staff support necessary to the full development and implementation of the balanced compliance program. The descriptions below are meant only to explain the activities which are most critical to the implementation of the compliance program.

A. Regional Management and Professional Support Staff

This staff of 1978 will provide overall regional office management and management support, including reporting, assessments of regional progress, evaluations of compliance activities, provision of data collection services, provision of administrative support services, and coordination of the correspondence of the regional office, which is largely prepared by the regional investigative staffs.

B. Headquarters Staff

Unit	Professional Staff
Office of the Director	6
Executive Secretariat	2
Office of Inter-Governmental Affairs	7
Office of Public Affairs	6
Office of the Assistant Director, Administration and Management	18
Office of the Deputy Director, Compliance and Enforcement	5
Division of Operational Planning and Support	5
Division of Technical Review and Assistance	58
Division of Training	12
Office of the Associate Director, Policy, Planning, and Research	2
Division of Policy and Procedures	24
Division of Planning and Research	11
Office of the Deputy Director, Program Review and Assistance	3
Division of Program Planning and Appraisal	8
Division of Intra-Departmental Technical Assistance	15
Office of the General Counsel, Civil Rights Division	64
Total	246

1. Director: In addition to the Director, the staff includes the Executive Secretariat responsible for document control; the Office of Public Affairs responsible for planning and directing a comprehensive civil rights public information program; and the Office of Inter-Governmental Affairs responsible for liaison with the Congress, Federal departments and agencies, and State and local governments and their representative organizations. These offices coordinate the preparation of responses by the staffs of the operational and policy division to the large volume of congressional, executive, and other correspondence received by OCR.

2. Administration and management: This staff provides financial services and budget management for the office and develops and maintains information systems support for all office components. In addition, the staff provides personnel support and management analysis services, concentrating particularly on management planning and control.

3. Compliance and enforcement: This office is the direct link between headquarters and the regions. Staff oversee the conduct of the compliance activities to ensure that all policies, procedures, and standards are uniformly and effectively implemented. They also assist the regions in the development of cases, participate on occasion in the compliance reviews conducted by the regions, develop guidelines and procedures governing the conduct of all reviews, and train the staff.

4. Policy, planning, and research: Roughly two-thirds of this staff are devoted to the development of policies and procedures in all areas, including, but not limited to:

Title IX.

Section 504.

Guidelines, standards, and remedies for language barrier problems in all facilities.

Guidelines for state health and human development agencies.

Anti-discrimination provisions for the location of health and human development facilities and services.

Policy on vocational education programs.

Policy on discipline in schools.

Policy on recipient/contractor record keeping.

Staff work closely with the Compliance and Enforcement staff and participate in investigations and reviews to determine the appropriateness of the policy being developed. Policy development, since it answers a most critical need, is expected to have far-reaching effects on the total compliance program and is a component of the projected increased efficiencies, contributing to increasing carryover complaint completions and expediting further complaint investigations.

The remainder of this staff is responsible for long range planning, research and evaluation, and the design and conduct of surveys and other data collection and analysis activities. OCR's data collection and analysis plan for fiscal year 1978 includes the following:

1978-79 Elementary and Secondary Education Survey.

1978-79 Higher Education Enrollment and Degrees Conferred Surveys.

Case Data Analysis (including the reviews of four major city school systems).

Higher Education Statewide Desegregation Reports.

Hospital Site Location Study.

Information Management System.

Management Analysis and Program Effectiveness Evaluation.

Policy Research and Dissemination.

Planning and designing major new surveys in the health, human development, vocational education and special schools areas to be conducted during fiscal year 1978 and fiscal year 1979.

For some of the above activities, lead responsibility is carried by Compliance and Enforcement, Program Review and Assistance, or Administration and Management staff.

5. Program Review and Assistance: This office, created in fiscal year 1977, carries out the new efforts of the Department to extend civil rights responsibilities into the activities of the HEW program agencies (Principal Operating Components or POC's) who have direct contact with the recipients and beneficiaries of Federal funds. The purpose of this approach is to reduce post-award compliance problems by strengthening the pre-award determination process. Specific objectives to be accomplished in fiscal year 1978 include:

1. Develop and implement a Self-Assessment Guide with POC's.

2. Develop short and long range goals for OCR/POC civil rights initiatives.

3. Develop a civil rights orientation program for POC program and contracting officers.

4. Develop pre-award grant and contract clearance procedures to be implemented jointly by POC's and OCR.

5. Participate in the revision of the procurement manual used by POC's.

6. Develop consolidated language for all assurances required in grant applications and in contracts.

7. Establish a process for OCR clearance of Vocational Education State Plans.

8. Coordinate, with the POC's the Section 504 technical assistance effort of the Department.

9. Develop and implement the initial phase of an OCR/POC technical assistance, education and advocacy program.

In addition to the general effort designed to include all jurisdictions, in fiscal year 1978 OCR will exercise its responsibility for developing and coordinating the immediate and long-term departmental section 504

(handicap) Technical Assistance Program for HEW recipients. During fiscal year 1978, OCR will ensure the development of essential resource materials to assist recipients in complying with the more immediate requirements imposed by the section 504 Regulation. These materials will include: self-evaluation instruments, training curricula, national needs assessment, illustrative procedures, employment-related guidelines and checklists.

6. General Counsel: The staff of the Civil Rights Division of the Office of the General Counsel (OGC) work in direct support of OCR's compliance program. In addition to OGC involvement in the administrative enforcement process, emphasis will be placed on OGC involvement in all aspects of OCR's program, including participation in the development and conduct of reviews and investigations, reviews of pertinent legislation and regulations, provision of formal opinions, and participation in the development of policies and procedures.

VI. Work Measurement

The number of complaint and review activities OCR will be able to accomplish during fiscal year 1978 was determined by using an established work-measurement technique to derive an average or standard time for each type of activity. Each standard time is a weighted average of the investigative *work* time required to conduct a review or process a complaint. The standard times do not include "lapse" time, the normal calendar time associated with an investigation when no actual work is being performed on the case. During "lapse" time, the investigator will be working on other reviews or complaint investigations. Consequently, the number of complaint and review accomplishments reflected in this Plan represent work equivalents of complaint investigation and compliance review completions possible with the expenditure of person years cited in the Plan. The actual number of activity *initiations* will be significantly greater because of the "lapse" time factor.

The standard time for a complaint investigation is 44 days. This figure was derived as follows. First, the complaint investigation process was divided into discrete phases: intake, including completion of an incomplete complaint and determination of jurisdiction; investigative planning; on- and off-site information collection and analysis; negotiation; enforcement. Second, experienced investigative staff in each regional office were asked to estimate, for various types of complaints, the minimum, maximum, and most likely amounts of work time an investigator would devote to each of these phases. Third, an average time for each investigative phase was computed giving greatest weight to the "most likely" estimates. Finally, a single standard time was assembled from these weighted averages and further weighted by factoring in the percentage of complaints on the average which (1) can be expected to be closed during the intake phase, (2) will not require on-site data collection, (3) will not result in a finding of discrimination and, (4) will result in a finding of discrimination but will be resolved in the negotiation phase and not require the initiation of enforcement action.

The final standard time of 44 days was reduced to 22 days to determine work time required to complete "carryover" complaints (complaints active on October 1, 1977) since, on the average, half the work necessary to complete these cases was performed prior to the beginning of fiscal year 1978.

To determine the work equivalents of newly received and backlogged complaint completions, two additional adjustments were made. First, although OCR will not have the staff resources to process fully all complaints received during fiscal year 1978, each of these complaints will be taken through the intake phase of the investigative process to a determination of jurisdiction.

This requires on the average 0.85 workday per complaint and will result in closing approximately 402 of the new receipts. Second, after excluding the amount of time required for intake (NOTE.—The intake phase has been completed on all backlogged complaints), the standard time used to determine the work equivalent of backlog and new receipt complaint completions was decreased by 30 percent to approximately 30 days to reflect OCR's goal of increasing complaint handling efficiency during the fiscal year by reducing the time necessary to do the work.

The standard times for pre-funding reviews were derived through the same methodology by which the complaint standard time was derived and are as follows:

Type	Person-days per review
ESAA	14
Executive Order 11246 preaward	79
Health pre-grant	1

The standard times for other mandated and OCR-selected reviews likewise were derived by a similar methodology of weighted averages based on regional investigative staff estimates of the work time required to perform each major phase of a review conducted under one jurisdictional authority and covering a single issue. (NOTE.—in some instances, particularly the Southern elementary and secondary education carryover reviews, major city school system reviews, and residential health facility reviews, the investigative staff allocations are based solely on regional estimates of time required to complete activities and do not reflect the use of a standard time.) For reviews which include more than one issue, the standard times for each issue have been added and the total sum adjusted downward since the time required to conduct multiple-issue reviews does not increase in direct proportion with the time necessary to investigate each issue separately. Similarly, for reviews conducted under more than one jurisdiction, the standard time has again been adjusted downward since the time required increases in less than a direct proportion to the number of jurisdictional authorities included.

The resulting standard times for reviews used in this Plan are:

Type	Person-days per review
EO 11246 postaward reviews	79
Monitoring of *Adams* State higher education systems	86
Lau reviews (carryover)	19
Lau reviews (full scale)	41
Brown reviews	368
State elementary and secondary education agencies	121
Vocational technical schools/program	207
Special purpose state administered schools	123
Elementary and secondary school district discipline practices	63
Elementary and secondary school district special education programs	86
Elementary and secondary school district migrant education practices	72
Formerly dual State higher education systems	228
Other State higher education systems	125
Professional schools	142
Graduate schools	142
Undergraduate schools	158
Community colleges	194
Residential health facilities	30
Nonresidential health facilities	53
Nonresidential human development facilities	48
State and local health and human development agencies	193
Section 504 reviews	46 or 93 [1]
Sex discrimination reviews	21 or 74 [2]

[1] Variations in standard times are related to the type and size of institution to be reviewed.

[2] Variations in standard times are related to the numbers of issues to be investigated.

The final work equivalents of complaint and review accomplishments displayed on the attached charts are a function of the standard times and the number of work days available for compliance activities per investigator per year. There are 251 work days in a calendar year. From that total, an OCR employee can be expected to take an average of 20 days sick and annual leave. Additionally, an OCR investigator can expect to spend, each year, ten days participating in training, 12 days in meetings and 17 days responding to Privacy Act, Freedom of Information Act and other non-investigation inquiries. These figures are based on regional experience and reflect activities essential to OCR's ability to respond to the public and maintain a staff adequately trained to perform its job. The balance of the work year—192 days—is available for direct compliant and review-related activity.

VII. AOP Monitoring and adjustment

OCR will regularly monitor progress under this Plan. In addition, it is effecting a system to validate the standard times used and verify the rate and enformcement area proportions (race, sex, national origin, handicap) of new complaint receipts projected in this Plan.

At the end of the second quarter of the fiscal year, OCR will determine the revisions to the AOP required by an assessment of the first six months of activity. Both the numbers and kinds of activities and the standard times used will be considered for revision. For example, if incoming complaints are being received at a rate different than expected at the beginning of the fiscal year, the proportions will be recomputed; or if the standard times previously estimated for completing compliance activities were inaccurate, they will likewise be recomputed. If revisions are made, OCR will publish a description of the changes.

OCR will also issue a supplemental schedule of planned activities when authorization of additional positions requested in a supplemental budget is received.

Chart 1

PLANNED COMPLAINT PROCESSING ACTIVITY - FY 1978

National Totals

Available Investigative Person Years 243.13

BASIS	Carryover Complaints			Backlog Complaints			New Complaints				
	Workload 1/	Number to be Completed	Person Years	Workload 2/	Number to be Investigated	Person Years	Projected FY 1978 Receipts	Person Years for Intake 3/	Workload after Intake 4/	Number to be Investigated	Person Years
RACE	652.2	601.7	66.18	261.5	21	3.29	1192	5.24	1048	45	7.05
SEX	1090.7	963.7	106.02	284.5	14	2.19	1141	5.02	1004	33	5.17
NATIONAL ORIGIN	171.5	161	17.70	71	6	94	245	1.07	216	16	2.50
HANDICAP	112.6	101.6	11.18	453	14	2.20	756	3.31	664	26	4.07
TOTALS	2027	1828	201.08	1070	55	8.62	3334	14.64	2932	120	18.79

1. "Carryover complaints" means complaints in which the data and information gathering phase of the investigation began prior to 10/1/77.
2. "Backlog complaints" means complaints on hand as of 10/1/77 in which the data and information gathering phase of the investigation has not begun.
3. "Intake" means the initial review of incoming complaints, the acknowledgement, the determination of completeness and jurisdiction, and the completion of incomplete complaints.
4. Approximately 12% of all complaints received are outside the jurisdiction of OCR and are therefore eliminated from the complaint workload.

Chart 2

PLANNED COMPLIANCE REVIEW ACTIVITY - FY 1978

National Totals

Available Investigative Person Years 215.13 1/

	NUMBER	PERSON YEARS		NUMBER	PERSON YEARS		NUMBER	PERSON YEARS
1. Emergency School Aid Act Pre-Grant Reviews (Title VI)	691	48.37	11. Reviews of Vocational/Technical Schools/Programs in the North and West (Titles VI and IX, Section 504)	4	4.32	21. Reviews of Graduate Schools (Titles VI and IX, Section 504)	2	1.48
2. Health Agency and Program Pre-Grant Reviews (Title VI)	2445	12.22 2/	12. Reviews of Area Vocational Technical Schools in the South (Titles VI and IX, Section 504)	13	14.04	22. Reviews of Undergraduate Schools (Titles VI and IX, Section 504)	12	7.06
3. Pre-Award Reviews of Contractors (Executive Order 11246)	67	27.47	13. Reviews of Special Purpose State Administered Schools in the North and West (Titles VI and IX, Section 504)	1	0.64	23. Reviews of Community Colleges/ Community College System (Titles VI and IX, Section 504)	6	6.00
4. Post-Award Reviews of Contractors (Executive Order 11246)			14. Reviews of Special Purpose State Administered Schools in the South (Titles VI and IX, Section 504)	7	4.48	24. Reviews of Residential Health Facilities (Title VI and Section 504)	17	5.25
5. Monitoring of Adams State Higher Education Systems (Title VI)	8	3.60	15. Reviews of Elementary and Secondary School District Discipline Practices (Title VI)	4	1.32	25. Reviews of Nonresidential Health Facilities (Title VI and Section 504)	8	2.16
6. Equal Educational Services Reviews of Major City School Systems (Title VI, Title IX, and Section 504)	4	16.50	16. Reviews of Elementary and Secondary School District Special Education Programs (Title VI and Section 504)	2	0.90	26. Reviews of State Health Agencies (Title VI and Section 504)	5	5.00
7. Reviews of Elementary and Secondary School District Language Programs (Lau) (Title VI)	88	9.35	17. Reviews of Elementary and Secondary School District Migrant Education Practices (Title VI)	1	0.38	27. Reviews of Nonresidential Human Development Facilities (Title VI and Section 504)	10	2.50
8. Carryover Reviews of Elementary and Secondary School Districts in the North and West (Brown) (Titles VI and IX, Section 504)	7	13.37	18. Reviews of Formerly Dual State Higher Education Systems (Title VI)	4	4.76	28. Reviews of State Human Development Agencies (Title VI and Section 504)	7	6.50
9. Carryover Reviews of Elementary and Secondary School Districts in the South (Title VI and Title IX)	30	2.34	19. Reviews of State Higher Education Systems (Titles VI and IX, Section 504)	2	1.32	29. Special Section 504 Reviews	19	6.48
10. Reviews of State Elementary and Secondary Education Agencies (Titles VI and IX, Section 504)	4	2.24	20. Reviews of Professional Schools (Titles VI and IX, Section 504)	3	2.22	30. Special Title IX Reviews	16	2.86

1/ Includes 12.84 person years of headquarters staff time and 4.46 person years of non-investigative support staff time.
2/ Includes 4.46 person years of non-investigative support staff time.

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[4210-01]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Disaster Assistance Administration

[Docket No. NFD-593; FDAA-3054-EM]

ARKANSAS

Emergency Declaration and Related Determinations

AGENCY: Federal Disaster Assistance Administration, HUD.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of an emergency for the State of Arkansas (FDAA-3054-EM), dated January 20, 1978, and related determinations.

DATED: January 20, 1978

FOR FURTHER INFORMATION CONTACT:

Frank J. Muckenhaupt, Chief, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410, 202-634-7825.

NOTICE: Pursuant to the authority vested in the Secretary of Housing and Urban Development by the President under Executive Order 11795 of July 11, 1974, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285; and by virtue of the Act of May 22, 1974, entitled "Disaster Relief Act of 1974" (88 Stat. 143); notice is hereby given that on January 20, 1978, the President declared an emergency as follows:

I have determined that the impact of tornadoes on the State of Arkansas is of sufficient severity and magnitude to warrant a declaration of an emergency under Pub. L. 93-288. I therefore declare that such an emergency exists in the State of Arkansas.

In order to provide Federal assistance, you are hereby authorized to donate Government-owned mobile homes to the State of Arkansas for the purpose of providing temporary housing under the provisions of Section 404 of Pub. L. 93-288. You are further authorized to allocate, from funds available for these purposes, such amounts as you find necessary for administrative expenses.

Notice is hereby given that pursuant to the authority vested in the Secretary of Housing and Urban Development under Executive Order 11795, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285, I hereby appoint Mr. Joe D. Winkle, FDAA Region VI, to act as the Federal Coordinating Officer for this declared emergency.

I do hereby determine the following areas to have been adversely affected by this declared emergency.

The Counties of: Cross, St. Francis, and Woodruff.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

WILLIAM H. WILCOX,
Administrator, Federal Disaster Assistance Administration.

[FR Doc. 78-4448 Filed 2-16-78; 8:45 am]

[4210-01]

[Docket No. NFD-594; FDAA-3056-EM]

INDIANA

Emergency Declaration and Related Determinations

AGENCY: Federal Disaster Assistance Adminstration, HUD.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of an emergency for the State of Indiana (FDAA-3056-EM), dated January 27, 1978, and related determinations.

DATED: January 27, 1978.

FOR FURTHER INFORMATION CONTACT:

Frank J. Muckenhaupt, Chief, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410, 202-634-7825.

NOTICE: Pursuant to the authority vested in the Secretary of Housing and Urban Development by the President under Executive Order 11795 of July 11, 1974, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285, and by virtue of the Act of May 22, 1974, entitled "Disaster Relief Act of 1974" (88 Stat. 143); notice is hereby given that on January 27, 1978, the President declared an emergency as follows:

I have determined that the impact of an abnormal accumulation of snow resulting from a series of blizzards and snowstorms in the State of Indiana is of sufficient severity and magnitude to warrant a declaration of an emergency under Public Law 93-288. I therefore declare that such an emergency exists in the State of Indiana.

Notice is hereby given that pursuant to the authority vested in the Secretary of Housing and Urban Development under Executive Order 11795, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285, I hereby appoint Mr. Robert E. Connor, FDAA Region V, to act as the Federal Coordinating Officer for this declared emergency.

Areas eligible for Federal assistance under the President's emergency declaration will be determined on a case-by-case basis by the Federal Disaster Assistance Administration based upon Federal-State assessments of immediate needs.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance)

WILLIAM H. WILCOX,
Administrator, Federal Disaster Assistance Administration.

[FR Doc. 78-4449 Filed 2-16-78; 8:45 am]

[4210-01]

[Docket No. NFD-595; FDAA-3057-EM]

MICHIGAN

Emergency Declaration and Related Determinations

AGENCY: Federal Disaster Assistance Administration, HUD.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of an emergency for the State of Michigan (FDAA-3057-EM), dated January 27, 1978, and related determinations.

DATED: January 27, 1978.

FOR FURTHER INFORMATION CONTACT: Frank J. Muckenhaupt, Chief, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410, 202-634-7825.

NOTICE: Pursuant to the authority vested in the Secretary of Housing and Urban Development by the President under Executive Order 11795 of July 11, 1974, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285; and by virtue of the Act of May 22, 1974, entitled "Disaster Relief Act of 1974" (88 Stat. 143); notice is hereby given that on January 27, 1978, the President declared an emergency as follows:

I have determined that the impact of an abnormal accumulation of snow resulting from a series of blizzards and snowstorms in the State of Michigan is of sufficient severity and magnitude to warrant a declaration of an emergency under Public Law 93-288. I therefore declare that such an emergency exists in the State of Michigan.

Notice is hereby given that pursuant to the authority vested in the Secretary of Housing and Urban Development under Executive Order 11795, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Au-

thority, Docket No. D-74-285, I hereby appoint Mr. Robert E. Connor, FDAA Region V, to act as the Federal Coordinating Officer for this declared emergency.

Areas eligible for Federal assistance under the President's emergency declaration will be determined on a case-by-case basis by the Federal Disaster Assistance Administration based upon Federal-State assessments of immediate needs.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance)

WILLIAM H. WILCOX,
Administrator, Federal Disaster Assistance Administration.

[FR Doc. 78-4450 Filed 2-16-78; 8:45 am]

[4210-01]

[Docket No. NFD-596; FDAA-3055-EM]

OHIO

Emergency Declaration and Related Determinations

AGENCY: Federal Disaster Assistance Administration, HUD.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of an emergency for the State of Ohio (FDAA-3055-EM), dated January 26, 1978, and related determinations.

DATED: January 26, 1978.

FOR FURTHER INFORMATION CONTACT:

Frank J. Muckanhaupt, Chief, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410, 202-634-7825.

NOTICE: Pursuant to the authority vested in the Secretary of Housing and Urban Development by the President under Executive Order 11795 of July 11, 1974, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285; and by virtue of the Act of May 22, 1974, entitled "Disaster Relief Act of 1974" (88 Stat. 143); notice is hereby given that on January 26, 1978, the President declared an emergency as follows:

I have determined that the impact of an abnormal accumulation of snow resulting from a series of blizzards and snowstorms in the State of Ohio is of sufficient severity and magnitude to warrant a declaration of an emergency under Public Law 93-288. I therefore declare that such an emergency exists in the State of Ohio.

Notice is hereby given that pursuant to the authority vested in the Secretary of Housing and Urban Development under Executive Order 11795, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285, I hereby appoint Mr. Robert E. Connor, FDAA Region V, to act as the Federal Coordinating Officer for this declared emergency.

Areas eligible for Federal assistance under the President's emergency declaration will be determined on a case-by-case basis by the Federal Disaster Assistance Administration based upon Federal-State assessments of immediate needs.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

WILLIAM H. WILCOX,
Administrator, Federal Disaster Assistance Administration.

[FR Doc. 78-4451 Filed 2-16-78; 8:45 am]

[4310-84]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[F-19155-93]

ALASKA

Alaska Native Claims Selection; Publication

On December 18, 1975, Doyon, Ltd. filed regional selection application F-19155-93 under the provisions of section 12(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 701; 43 U.S.C. 1601, 1611(c) (Supp. V, 1975)), for the surface and subsurface estates of certain lands in the Kandik Basin.

As to the lands described below, the application is properly filed and meets the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface and subsurface estates of the following described lands, selected pursuant to section 12(c), aggregating approximately 22,919 acres, is considered proper for acquisition by Doyon, Ltd. and is hereby approved for conveyance pursuant to section 14(e) of the Alaska Native Claims Settlement Act:

FAIRBANKS MERIDIAN, ALASKA (UNSURVEYED)

T. 22 N., R. 27 E.,
All.

Containing approximately 22,919 acres.

The conveyance issued for the surface and subsurface estate of the lands described above shall contain the following reservations to the United States:

1. A right-of-way thereon for ditches and canals constructed by the authority of the United States. Act of August 30, 1890, (26 Stat. 391; 43 U.S.C. 945);

2. A right-of-way thereon for the construction of railroads, telegraph, and telephone lines, as prescribed and directed by the act of March 12, 1914, 38 Stat. 305;

3. Pursuant to section 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 708; 43 U.S.C. 1601, 1616(b) (Supp. V, 1975)), the following public easements, referenced by easement identification number (EIN) on the easement maps in case file F-21779-93, are reserved to the United States and subject to further regulation thereby:

(a) (EIN 31 C) The right of the United States to enter upon the lands hereinabove granted for cadastral, geodetic, or other survey purposes is reserved, together with the right to do all things necessary in connection therewith.

(b) (EIN 32 C) Easements for the transportation of energy, fuel, and natural resources which are the property of the United States or which are intended for delivery to the United States or which are produced by the United States. These easements also include the right to build any related facilities necessary for the exercise of the right to transport energy, fuel and natural resources, including those related facilities necessary during periods of planning, locating, constructing, operating, maintaining, or terminating transportation systems. The specific location of these easements shall be determined only after consultation with the owner of the servient estate. Whenever the use of such easements will require removal or relocation of any structure owned or authorized by the owner of the servient estate, such use shall not be initiated without the consent of the owner of such improvement; provided, however, that the United States may exercise the right of eminent domain if such consent is not given. Only those portions of these easements that are actually in use or that are expressly authorized on March 3, 1996, shall continue to be in force.

(c) (EIN 33 C-4) An easement for a proposed access trail fifty (50) feet in width from public lands in T. 23 N., R. 27 E., Fairbanks Meridian, southeasterly to public lands in T. 22 N., R. 28 E., Fairbanks Meridian. The usage of roads and trails will be controlled by applicable State or Federal law or regulation.

The grant of the above-described lands shall be subject to:

1. Issuance of a patent confirming the boundary description of the lands hereinabove granted after approval and filing by the Bureau of Land Management of the official plat of survey covering such lands;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under section 6(g) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 341; 48 U.S.C. Ch. 2, Sec. 6(g) (1970))), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him; and

3. The terms and conditions of the agreement of February 18, 1977 between Doyon, Ltd. and the Secretary of the Interior. A copy of the agreement shall be attached to and become part of the conveyance document and shall be recorded therewith. A copy of the agreement is located in the Bureau of Land Management easement case file for Doyon, Ltd., serialized F-21779-93. Any person wishing to examine this agreement may do so at the Bureau of Land Management, Alaska State Office, 555 Cordova Street, Pouch 7-512, Anchorage, Alaska 99510.

To date, 296,850 acres of land, selected pursuant to section 12(c) of the Alaska Native Claims Settlement Act have been approved for conveyance to Doyon, Ltd.

There are no inland water bodies considered to be navigable within the land described.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the FEDERAL REGISTER and once a week, for four (4) consecutive weeks, in the Fairbanks Daily News-Miner. Any party claiming a property interest in lands affected by this decision may appeal the decision to the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510 with a copy served upon both the Bureau of Land Management, Alaska State Office, 555 Cordova Street, Pouch 7-512, Anchorage, Alaska 99510, and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 408, Anchorage, Alaska 99501, also:

1. Any party receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.
2. Any unknown parties, any parties unable to be located after reasonable efforts have been expended to locate, and any parties who failed or refused to sign the return receipt shall have until March 20, 1978, to file an appeal.
3. Any party known or unknown who may claim a property interest which is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of, and requirements for, filing an appeal may be obtained from the Bureau of Land Management, 555 Cordova Street, Pouch 7-512, Anchorage, Alaska 99510.

ROBERT E. SORENSON,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-4413 Filed 2-16-78; 8:45 am]

[4310-84]

[NM 32693]

NEW MEXICO

Application

FEBRUARY 9, 1978.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Natural Gas Pipeline Co. of America has applied for one 4-inch natural gas pipeline, with related facilities, right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 25 S., R. 26 E.,
Sec. 11, W½NE¼.

This pipeline will convey natural gas across 0.390 miles of public land in Eddy County, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, N. Mex. 88201.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-4358 Filed 2-16-78; 8:45 am]

[4310-84]

[NM 32702, 32703, 32706, and 32707]

NEW MEXICO

Applications

FEBRUARY 10, 1978.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Co. has applied for four 4½-inch natural gas pipeline rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 28 N., R. 9 W.,
Sec. 36, lot 2.
T. 29 N., R. 9 W.,
Sec. 6, lots 11, 12, and SW¼NE¼;
Sec. 17, E½SE¼.
T. 29 N., R. 12 W.,
Sec. 24, N½NE¼ and NE¼NW¼.

These pipelines will convey natural gas across 1.105 miles of public lands in San Juan County, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, N. Mex. 87107.

STELLA V. GONZALES,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-4401 Filed 2-16-78; 8:45 am]

[4310-10]

BELLE FOURCHE PROJECT, SOUTH DAKOTA, NEWELL TOWNSITE DIVISION

Sale of Townsite Lots, Newell Townsite, S. Dak.

Notice is given that under the authority granted by the acts of April 16 and June 27, 1906 (34 Stat. 116, 519, 43 U.S.C. 561, 568), and all amendments to and regulations resulting from these Acts that on February 27, 1978, at 2 p.m., local time, 11 lots, as described below, will be offered for sale at public auction at the Belle Fourche Irrigation District Office, Newell, S. Dak. These lots will be sold to the highest bidder, at not less than the appraised value.

Area and Appraised Value:

T. 9N., R. 6E., B.H.M. Newell Townsite, South Dakota

Block	Lots	Area	Appraised Value
5.....	1	50 x 130	$50.00 each
6.....	3, 4, 5, 6	50 x 130	$100.00 each
7.....	1, 2, 3, 4, 5, 6	50 x 130	$100.00 each

All purchasers must be citizens of or have filed for citizenship in the United States. Purchases must be accompanied by full payment in cash on the sale date.

Mr. R. H. DeKramer, Bureau of Reclamation, P.O. Box 825, Huron, S. Dak. 57350, has been designated as superintendent of the sale and auctioneer.

The superintendent conducting the sale is authorized to refuse any and all bids for any lot and to suspend, adjourn, or postpone the sale of any lot to any time and place as he may deem proper. Any lot remaining unsold will be subject to private sale by the Regional Director, Bureau of Reclamation, P.O. Box 2553, Billings, Mont. 59103.

Additional information on exact location of the lots and details of the sale may be obained by contacting the sale superintendent at the above address, telephone 605-782-2242, or the Regional Director at the above address, telephone 406-657-6214.

Warning. All persons are warned against forming any combination or agreement which will prevent any block from selling advantageously or which will in any way hinder or embarrass the sale. Any persons so offending will be prosecuted under Title 18 U.S.C. 1860.

Dated: February 13, 1978.

DANIEL BEARD,
Acting Secretary of the Interior.

[FR Doc. 78-4473 Filed 2-16-78; 8:45 am]

[4310-84]

[INT FES 78-2]

COLORADO

Availability of Final Environmental Statement; Proposed Foothills Project Near Denver

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior's Bureau of Land Management has prepared a final environmental statement (FES) on the proposed Foothills Project near Denver, Colo.

The statement analyzes environmental impacts that would result from implementation of the proposal of the Board of Water Commissioners for the City and County of Denver to construct, operate, and maintain water diversion facilities on federally managed lands on the South Platte River 25 miles southwest of Denver, Colo. The analysis identifies and describes those impacts that would result from the operation of those facilities at the 125 million gallons per day (mgd) initial operating capacity as well as those impacts resulting from operation of the water treatment facilities and a conduit system at the ultimate capacity of 500 mgd.

Several alternatives to the proposed project including No Action, use of Chatfield Reservoir, an Upstream Dam, a Low Dam, and Water Conservation are considered. Three alternative raw water supply scenarios also describe possible new sources of water needed to meet the full 500 mgd capacity of the treatment plant.

In preparing the final statement, the Bureau of Land Management requested and received assistance and comments from many agencies of Federal, State, and local government. Notice of Availability of the draft environmental statement appeared in FEDERAL REGISTER Vol. 42, No. 156, August 12, 1977, page 40980. Written comments were invited for a 45-day period ending September 26, 1977. Additional opportunity to comment was provided at public hearings held on September 14, 15, and 16, 1977, in Denver, Colo.

The FES contains specific responses to both written comments and oral testimony that dealt with the adequacy of the draft environmental statement.

Revisions in the text were also made in response to comments or new information provided by the public during the comment period.

Copies of the final statement are available at the following locations:

BUREAU OF LAND MANAGEMENT

Washington Office of Public Affairs, Room 5625, 18th & C Streets NW., Washington, D.C. 20240, Telephone: 202-343-4151.

Canon City District Office, 3080 East Main Street, Canon City, Colo. 81212, Telephone: 303-275-7494.

Colorado State Public Affairs Office, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, Colo. 80202, Telephone: 303-837-4481.

Northeast Resource Area Office, 10250 West 44th Avenue, Wheatridge, Colo. 80933, Telephone: 303-234-4988.

PUBLIC LIBRARIES

Denver Public Library, 1357 Broadway, Denver, Colo. 80202.

Arapahoe County Library System, 6840 South University Boulevard, Littleton, Colo. 80122.

Douglas County Library System, 303 Gilbert, Castle Rock, Colo. 80104.

Bailey Library, Bailey, Colo. 80421.

Boulder Library, 1000 Canyon Boulevard, Boulder, Colo. 80302.

Thornton Library, 221 Eppinger Boulevard, Thornton, Colo. 80229.

Westminister Library, Westminister, Colo. 80030.

Adams County Library System, 10530 Huron, Northglenn, Colo. 80234.

Colorado State Library, 1362 Lincoln, Denver, Colo. 80202.

Jefferson County Library System, 10200 West 20th Avenue, Lakewood, Colo. 80215.

Aurora Library, 1297 Peoria, Aurora, Colo. 80011.

Englewood Library, 3400 South Elati, Englewood, Colo. 80110.

Littleton Library, 6014 South Datura, Littleton, Colo. 80120.

COUNTY OFFICE BUILDINGS

Adams County, 450 South 4th Avenue, Brighton, Colo. 80601.

Boulder, County, P.O. Box 471, Boulder, Colo. 80302.

Denver County, Room 451, City and County Building, Denver, Colo. 80202.

Eagle County, 55 Broadway, Eagle, Colo. 81631.

Arapahoe County, 2069 West Littleton Boulevard, Littleton, Colo. 80120.

Clear Creek County, P.O. Box 547, Georgetown, Colo. 80444.

Douglas County, 300 Wilcox, Castle Rock, Colo. 80104.

Gilpin County, P.O. Box 366, Central City, Colo. 80427.

Jefferson County, 1700 Arapahoe, Golden, Colo. 80149.

Summit County, P.O. Box 1538, Breckenridge, Colo. 80424.

Park County, P.O. Box 128, Fairplay, Colo. 80440.

Teller County, P.O. Box 248, Cripple Creek, Colo. 80813.

Single copies of the final statement can be obtained from the District Manager, Canon City District Office, Bureau of Land Management, 3080 East Main Street, P.O. Box 311, Canon City, Colo. 81212; the Area Manager, Northeast Resource Area Headquarters, Bureau of Land Management, 10250 West 44th Avenue, Wheatridge, Colo. 80933; or the State Director, Colorado State Office, Bureau of Land Management, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, Colo. 80202.

Dated: February 10, 1978.

LARRY E. MEIEROTTO,
Deputy Assistant Secretary.

[FR Doc. 78-4226 Filed 2-16-78; 8:45 am]

[7020-02]

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-46]

CERTAIN TELESCOPIC SIGHT MOUNTS

Investigation

Notice is hereby given that a complaint was filed with the United States International Trade Commission on January 18, 1978, and amended on January 31, 1978, and February 10, 1978, under section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), on behalf of Clear View Manufacturing Co., Inc., 20821 Grand River, Detroit, Mich. 48219. The amended complaint alleges that unfair methods of competition and unfair acts exist in the importation of certain telescopic sight mounts into the United States, or in their sale, by reason of the alleged coverage of such articles by U.S. Letters Patents 3,835,565 and Des. 232,633 under which patents Clear View Manufacturing Co., Inc. is the exclusive licensee. The amended complaint alleges that such unfair methods of competition and unfair acts have the effect or tendency to destroy or substantially injure an industry, efficiently and economically operated, in the United States. Complainant requests orders temporarily and permanently excluding such articles from entry into the United States.

Having considered the amended complaint, the United States International Trade Commission, on February 14, 1978, ordered:

(1) That, pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), an investigation be instituted to determine, under subsection (c) whether, on the basis of the allegations set forth in the amended complaint and the evidence adduced, there is a violation or reason to believe there is a violation of subsection (a) of this section in the unauthorized importation of certain telescopic sight mounts into the United States, or in their sale, by reason of such telescopic sight mounts allegedly being covered by claims of U.S. Letters Patents 3,835,565 and Des. 232,633, the effect or tendency of which is to destroy or substantially injure an industry, efficiently and economically operated, in the United States.

(2) That, for the purpose of the investigation so instituted, the following persons, alleged to be involved in the unauthorized importation of such articles into the United States, or in their sale, are hereby named as respondents upon which the amended complaint and this notice are to be served:

L.E.S., 3640 W. Dempster Street, Skokie, Illinois 60076.

Tomy Enterprises Co., Ltd., 27-16 Nishiaraihon-Cho, 1 Chome, Adachi-Ku, C.P.O. 123, Tokyo, Japan.

Ednar, Inc., Kyodo Boulevard, 2-10-11 Kayabacho, Nihombashi, Chuo-Ku, Tokyo, Japan.

Shiba-Shoji Trading Co., Ltd., 2-D Villa-Gaien Building, 38-16 Jungumae, 3-Chome, Shibuya-Ku, Tokyo, Japan.

(3) That, for the purpose of the investigation so instituted, Myron R. Renick, Chief Administrative Law Judge, United States International Trade Commission, 701 E Street NW., Washington, D.C. 20436, is hereby appointed as presiding officer, and

(4) That, for the purpose of the investigation so instituted, Louis S. Mastriani, United States International Trade Commission, 701 E Street NW., Washington, D.C. 20436, is hereby named Commission investigative attorney.

Responses must be submitted by the named respondents in accordance with section 210.21 of the Commission's Rules of Practice and Procedure, as amended (19 CFR 210.21). Pursuant to sections 210.16(d) and 210.21(a) of the Rules, such responses will be considered by the Commission if received not later than 20 days after the date of service of the amended complaint. Extensions of time for submitting a response will not be granted unless good and sufficient cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the amended complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the amended complaint and of this notice, and will authorize the presiding officer and the Commission, without further notice to the respondent, to find the facts to be as alleged in the amended complaint and this notice and to enter both a recommended determination and a final determination, respectively, containing such findings.

The amended complaint is available for inspection by interested persons at the Office of the Secretary, United States International Trade Commission, 701 E Street NW., Washington, D.C. 20436, and in the New York City office of the Commission, 6 World Trade Center.

Issued: February 14, 1978.

By order of the Commission.

KENNETH R. MASON,
Secretary.

[FR Doc. 78-4435 Filed 2-16-78; 8:45 am]

[7020-02]

[Investigation No. 337-TA-47]

CERTAIN FLEXIBLE FOAM SANDALS

Investigation

Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on January 18, 1978, under section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), on behalf of Tiddies, Inc., 711½ E. Houston, Pasadena, Tex. The complaint alleges that unfair methods of competition and unfair acts exist in the importation of certain sandals into the United States, or in their sale, by reason of the alleged coverage of such articles by claims 1-4, 6-9, 11 and 16-22 of U.S. Letters Patent No. 3,978,596, which patent is owned by Tiddies, Inc. The complaint alleges that such unfair methods of competition and unfair acts have the effect or tendency to destroy or substantially injure an industry, efficiently and economically operated, in the United States. Complainant has requested that the imports in question be temporarily and permanently excluded from entry into the United States.

Having considered the complaint, the U.S. International Trade Commission, on February 14, 1978, Ordered——

(1) That, pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), an investigation be instituted to determine, under subsection (c) whether, on the basis of the allegations set forth in the complaint and the evidence adduced, there are violations or there is reason to believe there are violations of subsection (a) of this section in the unauthorized importation of certain sandals into the United States, or in the sale thereof, the effect or tendancy of which is to destroy or substantially injure an industry, efficiently and economically operated, in the United States. The alleged violations of subsection (a) of this section consist of allegations that such imported articles infringe claims 1-4, 6-9, 11 and 16-22 of U.S. Letters Patent No. 3, 978,596, which patent is wholly owned by Tiddies, Inc.

(2) That, for the purpose of the investigation so instituted, the following persons, alleged to be involved in the unauthorized importation of such article into the United States, or in their sale, are hereby named as the respondents upon which the complaint and this notice are to be served:

IMPORTERS

Young Californian Shoes, Inc., 4901 Morena Boulevard, Suite 1101, San Diego, Calif. 92117.

Graham-Brown Shoe Co., 1715 N. Industrial Boulevard, Dallas, Tex. 75207.

FOREIGN EXPORTER

American Footwear Manufacturing Co., Inc., P.O. Box 388, Taichung, Taiwan.

(3) That, for the purpose of the investigation so instituted, Judge Myron R. Renick, Chief Administrative Law Judge, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, is hereby appointed as presiding officer, and

(4) That, for the purpose of the investigation so instituted, Charles F. Schill, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, is hereby named Commission investigative attorney.

Responses must be submitted by the named respondent in accordance with section 210.21 of the Commission's rules of practice and procedure (19 CFR 210.21). Pursuant to sections 201.16(d) and 210.21(a) of the rules, such responses will be considered by the Commission if received not later than 20 days after the date of service of the complaint. Extension of time for submitting a response will not be granted unless good and sufficient cause therefore is shown.

Failure of the respondents to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute waiver of the right to appear and contest the allegations of the complaint and of this notice, and will authorize the presiding officer and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter both a recommended determination and a final determination, respectively, containing such findings.

The complaint, with the exception of confidential information referred to therein, is available for inspection by interested persons at the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, and in the New York City Office of the Commission, 6 World Trade Center.

Issued: February 14, 1978.

By order of the Commission.

KENNETH R. MASON,
Secretary.

[FR Doc. 78-4436 Filed 2-16-78; 8:45 am]

[4410-01]

DEPARTMENT OF JUSTICE

Attorney General

[Order No. 767-78]

PRIVACY ACT OF 1974

Notice of New System of Records

Notice is hereby given, pursuant to the provisions of the Privacy Act of 1974 (5 U.S.C. 552a), that the Department of Justice proposes a new system of records to be maintained by the Immigration and Naturalization Service.

The Position Accounting/Control System (PACS), JUSTICE/INS—003, is a new system of records for which no public notice consistent with the provisions of 5 U.S.C. 552a(e) (4) has been published in the FEDERAL REGISTER.

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

tine uses of this system. Comments should be addressed to Robert J. Coyne, Acting Administrative Counsel, Room 1121, Office of Management and Finance, Department of Justice, Washington, D.C. 20530, telephone 202-739-5361. All comments must be received on or before March 20, 1978. Comments will be available for inspection in Room 1266, Main Department of Justice Building. No oral hearings are contemplated.

JUSTICE/INS—003

System name:

Position Accounting/Control System (PACS).

System location:

Central Office, Immigration and Naturalization Service, 425 I Street NW., Washington, D.C.

Categories of individuals covered by the system:

Employees of the Immigration and Naturalization Service.

Categories of records in the system:

A. Position data: position number; category code; organization code; position title; pay plan; series; grade; description; accounting classification code; active/inactive code; fund control number; amount authorized; hours authorized; new program element code; input control number; input transaction code; date position created or vacated; SF-52 date; announcement date and number; Entered on Duty (EOD) date; projected vacant date; date last classified; date Position Management Committee (PMC) approved; date position last audited or reviewed; date of transaction; position appeal date, if any; union coverage code; appealed to code; position freeze code; competitive level code; remarks code.

B. Payroll data: Social Security Account Number (SSAN); pay period number; payroll subobject code; last pay period amount and hours; cumulative amount and hours; accrual amount and hours; prior month YTD amount and hours; payroll current/prior/manual (C/P/M) code.

C. Personnel data: position number; organization code; position title; pay plan; series; grade; description; accounting classification code; incumbent's name, Social Security Account Number, next Quality Step Increase (QSI) date; nature of action; transaction date; FLSA exemption code; and effective date.

Authority for maintenance of the system:

Section 103 of the Immigration and Nationality Act, as amended (8 U.S.C. 1103); Delegation of Authority to Departments (5 U.S.C. 301); Position Management Systems and Employment Ceilings, Bureau of the Budget Circular No. A-64 (June 28, 1965; January 2, 1970).

Routine uses of records maintained in the system, including categories of users and the purpose of such uses:

Information in this system is used for reports to INS managers of position authorization and cost data by geographic area, organizational unit, program activity, and budget allocation, including the composition of the INS work force (on-board strength and vacancies); status of each vacancy; turnover and occupancy rate statistics; aggregate position data by grade level, organizational unit, program activity, type of position, etc.; actual costs for each position and projected position costs for the next fiscal year; and authorization of positions through funds control and periodic review mechanisms.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress: Information contained in a system of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of information to the National Archives and Records Service: A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Automated records are maintained on magnetic disk and tape at the Department of Justice Data Management Service. All other records are maintained as paper documents at the Central Office, 425 I Street NW., Washington, D.C. and four regional personnel offices.

Retrievability:

Records are retrieved by position number, organization code, accounting classification code, or program element code.

Access controls:

Access to the system is restricted to employees of the Immigration and Naturalization Service responsible for position accounting and management. Biweekly reports are distributed only to authorized INS personnel. Remote terminals for additional access are located in areas restricted to authorized INS personnel.

Safeguards:

The data in the automated system of records is safeguarded and protected in accordance with Department of Justice and INS rules and procedures. Paper forms are stored in metal file cabinets which are locked outside of normal duty hours.

Retention and disposal:

Records are deleted from the automated data base within 60 days after termination of the position authorization. Employee personnel information in the automated data base is deleted when the position becomes vacant. The data base is updated biweekly to maintain accurate, current information on position status and characteristics.

System manager:

Associate Commissioner, Management.

Notification procedure:

Inquiries should be addressed to the Associate Commissioner, Management, Immigration and Naturalization Service, 425 I Street NW., Washington, D.C. 20536.

Record access procedures:

In all cases, requests for access to a record shall be in writing, by mail or in person. If request for access is made by mail, the envelope and letter shall be clearly marked "Privacy Access Request." The requester shall include a description of the subject matter and, if known, the relating file number. To identify a record relating to an individual, requester should provide the individual's full name, date and place of birth, employee identification number, and, if known, position number. The requester shall also provide a return address for transmitting the information.

Contesting record procedures:

Any individual desiring to contest or amend information maintained in the system should direct his request to the Associate Commissioner, Management. The request should state clearly what information is being contested, the reasons for contesting it, and the proposed amendment to the information.

Record source categories:

Position management data is obtained from official records in INS

personnel offices. Payroll data is obtained from the computerized Department of Justice Payroll System (JUSTICE/OMF—003). Personnel management data is obtained from the Department of Justice Personnel System (JUNIPER).

Systems exempted from certain provisions of the Act:

None.

Dated: February 9, 1978.

GRIFFIN B. BELL,
Attorney General.

[FR Doc. 78-4433 Filed 2-16-78; 8:45 am]

[4510-30]

DEPARTMENT OF LABOR

Employment and Training Administration

JOB CORPS

Proposed Job Corps Center at the Former Lockheed Electronics Assembly Plant, Tucson, Ariz.; Determination of Negative Environmental Impact

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice—Finding of negative environmental impact.

SUMMARY: The purpose of this notice is to announce a determination by the Department under the National Environmental Policy Act and 40 CFR Part 1500 that the establishment of a Job Corps center at the former Lockheed Electronics assembly plant, 901 South Campbell Avenue, Tucson, Ariz., does not constitute a major Federal action which will significantly affect the environment.

FOR FURTHER INFORMATION CONTACT:

Raymond E. Young, Director, Office of Jobs Corps and Young Adult Conservation Corps, Room 6100, Patrick Henry Building, 601 D Street NW., Washington, D.C. 20213, telephone 202-376-6995.

SUPPLEMENTARY INFORMATION: Title IV of the Comprehensive Employment and Training Act (CETA) of 1973, as amended, 29 U.S.C. § 911 et seq., directs the Secretary of Labor to establish Job Corps centers to provide occupational training to disadvantaged youths ages 16 through 21. The Secretary has issued regulations published at 29 CFR Part 97a, implementing Title IV of CETA. Pursuant to his authority, the Secretary is planning to establish a Job Corps center at the former Lockheed Electronics assembly plant location.

Pursuant to 40 CFR Part 1500, the Department of Labor has conducted an environmental assessment as part of site utilization study and has determined that preparation of an environmental impact statement is not required since the establishment of this Job Corps center is not a major Federal action which will significantly affect the quality of the human environment within the meaning of 40 CFR Section 1500.6(c). The proposed Tucson Job Corps Center will be a training center with residential, nonresidential, and educational facilities for approximately 250 disadvantaged youth, men, and women, ages 16 through 21, who need and can benefit from intensive employment related services. The function of the center and the staff of approximately 150 will be to provide skill training in selected vocational courses and continuing and/or remedial education in academic subjects.

The proposed use of the facility is intended for essentially the same purpose as used by the previous occupant, specifically, residential living and education.

The center will be a self-contained facility located approximately 2 miles southeast of downtown Tucson, Ariz. The site surveyed for use by Job Corps consists of two buildings.

All utilites, including municipal water and sewer, natural gas, and electric power are provided to the site. All utilities are active. Required modifications will meet applicable Federal, State, and local standards.

The proposed Job Corps center will be operated in compliance with the Job Corps environmental standards published at 29 CFR 97a.116, and with applicable Federal, State, and local regulations concerning environmental health.

The proposed Job Corps center will comply with the water quality and related standards of the State and local Government, and with the standards established pursuant to the Federal Water Pollution Control Act, 33 U.S.C. § 1251 et seq., with Executive Order 11752, and with regulations and guidelines of the U.S. Environmental Protection Agency.

The center installation will be designed, operated, and maintained so as to conform to Federal air quality standards, including those found in Executive Order 11752 and 40 CFR Part 86.

Signed at Washington, D.C., this 27th day of January 1978.

RAYMOND E. YOUNG,
Director,
Office of Job Corps.

[FR Doc. 78-4159 Filed 2-16-78; 8:45 am]

[4510-30]

JOB CORPS

Proposed Job Corps Center at Stead Campus, University of Nevada in Reno; Determination of Negative Environmental Impact

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice—Finding of negative environmental impact.

SUMMARY: The purpose of this notice is to announce a determination by the Department under the National Environmental Policy Act and 40 CFR Part 1500 that the establishment of a Job Corps center at the Stead Campus site in Reno, Nev., does not constitute a major Federal action which will significantly affect the environment.

FOR FURTHER INFORMATION:

Contact Raymond E. Young, Director, Job Corps, Room 6100, Patrick Henry Building, 601 D Street NW., Washington, D.C. 20213, telephone 202-376-6995.

SUPPLEMENTARY INFORMATION: Title IV of the Comprehensive Employment and Training Act (CETA) of 1973, as amended, 29 U.S.C. § 911 et seq., directs the Secretary of Labor to establish Job Corps centers to provide occupational training to disadvantaged youths ages 16 through 21. The Secretary has issued regulations published at 29 CFR Part 97a, implementing Title IV of CETA. Pursuant to his authority, the Secretary is planning to establish a Job Corps center at the former Stead Campus location.

Pursuant to 40 CFR Part 1500, the Department of Labor has conducted an environmental assessment as part of a site utilization study and has determined that preparation of an environmental impact statement is not required since the establishment of this Job Corps center is not a major Federal action which will significantly affect the quality of the human environment within the meaning of 40 CFR Section 1500.6(c). The proposed Reno Job Corps Center will be a training enter with residential, nonresidential and educational facilities for approximately 500 disadvantaged youth, men, and women, ages 16 through 21, who need and can benefit from intensive employment-related services. The function of the center and the staff of approximately 150 will be to provide skill training in selected vocational courses and continuing and/or remedial education in academic subjects.

The proposed use of the facility is intended for essentially the same purpose as used by the previous occupant, specifically, residential living and education.

The center will be a self-contained facility located approximately 12 miles north of downtown Reno, Nev. The site surveyed for use by Job Corps consists of 28 buildings.

All utilities, including municipal water and sewer, natural gas, and electric power are provided to the site. All utilities are active. Required modifications will meet applicable Federal, State, and local standards.

The proposed Job Corps center will be operated in compliance with the

Job Corps environmental standards published at 29 CFR 97a.116, and with applicable Federal, State, and local regulations concerning environmental health.

The proposed Job Corps center will comply with the water quality and related standards of the State and local Government, and with the standards established pursuant to the Federal Water Pollution Control Act, 33 U.S.C. § 1251 et seq., with Executive Order 11752, and with regulations and guidelines of the U.S. Environmental Protection Agency.

The center installation will be designed, operated, and maintained so as to conform to Federal air quality standards, including those found in Executive Order 11752 and 40 CFR Part 86.

Signed at Washington, D.C., this 1st day of February 1978.

RAYMOND E. YOUNG,
Director,
Office of Job Corps.

[FR Doc. 78-4160 Filed 2-16-78; 8:45 am]

[4510-30]

EMPLOYMENT TRANSFER AND BUSINESS COMPETITION DETERMINATIONS UNDER THE RURAL DEVELOPMENT ACT

Applications

The organizations listed in the attachment have applied to the Secretary of Agriculture for financial assistance in the form of grants, loans, or loan guarantees in order to establish or improve facilities at the locations listed for the purposes given in the attached list. The financial assistance would be authorized by the Consolidated Farm and Rural Development Act, as amended, 7 U.S.C. 1924(b), 1932, or 1942(b).

The Act requires the Secretary of Labor to determine whether such Federal assistance is calculated to or is likely to result in the transfer from one area to another of any employment or business activity provided by operations of the applicant. It is permissible to assist the establishment of a new branch, affiliate or subsidiary, only if this will not result in increased unemployment in the place of present operations and there is no reason to believe the new facility is being established with the intention of closing down an operating facility.

The Act also prohibits such assistance if the Secretary of Labor determines that it is calculated to or is likely to result in an increase in the production of goods, materials, or commodities, or the availability of services or facilities in the area, when there is not sufficient demand for such goods, materials, commodities, services, or facilities to employ the efficient capacity of existing competitive commercial or industrial enterprises, unless such financial or other assistance will not have an adverse effect upon existing competitive enterprises in the area.

The Secretary of Labor's review and certification procedures are set forth at 29 CFR Part 75. In determining whether the applications should be approved or denied, the Secretary will take into consideration the following factors:

1. The overall employment and unemployment situation in the local area in which the proposed facility will be located.

2. Employment trends in the same industry in the local area.

3. The potential effect of the new facility upon the local labor market, with particular emphasis upon its potential impact upon competitive enterprises in the same area.

4. The competitive effect upon other facilities in the same industry located in other areas (where such competition is a factor).

5. In the case of applications involving the establishment of branch plants or facilities, the potential effect of such new facilities on other existing plants or facilities operated by the applicant.

All persons wishing to bring to the attention of the Secretary of Labor any information pertinent to the determinations which must be made regarding these applications are invited to submit such information in writing within two weeks of publication of this notice to: Deputy Assistant Secretary for Employment and Training, 601 D Street NW., Washington, D.C. 20213.

Signed at Washington, D.C., this 13th day of February 1978.

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

APPLICATIONS RECEIVED DURING THE WEEK ENDING FEBRUARY 10, 1978

Name of applicant and location of enterprise	Principal product or activity
Susquehanna Motel Corp., Auburn, NY.	Hotel/motel.
Sweetapple Plastics, Inc., Greensboro, Ga..	Manufacture of plastic pipes.
Hollandale Seed & Delinting Co., Inc., Hollandale, Miss.	Custom cottonseed delinting service.
Larry and Kermit Wilson, Ocean Springs, Gulfport, and Biloxi, Miss.	Omelette Shoppes.
Rensselaer Care Center, Inc., Rensselaer, Ind.	Comprehensive nursing care facility.
Plains Milling, Inc., Magnolia, Minn.	Blending operation for rendered animal proteins.
Badger Hatchery, Inc., Howards Grove, Wis.	Sales of feed, seed, and farm supplies.
Kettle Moraine Coatings, Inc., Jackson, Wis.	Plastic coating of metal parts.
New Castle Engineering, Inc., New Castle, Ind.	Air compressor and industrial equipment sales, repair, and rentals.
Longwood Furnace Corp., Gallatin, Mo.	Manufacture of forced air dualfuel furnaces.
Resources Refining, Inc., Laramie, Wyo.	Manufacture of zinc sulphate.
Merle N. Ault, Cavalier, N. Dak.	Bakery.

[FR Doc. 78-4400 Filed 2-16-78; 8:45 am]

[4510-30]

JOB CORPS

Proposed Job Corps Center at Bethel College in St. Paul, Minnesota, Determination of Negative Environmental Impact

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice-Finding of Negative Environmental Impact.

SUMMARY: The purpose of this notice is to announce a determination by the Department under the National Environmental Policy Act and 40 CFR Part 1500 that the establishment of a Job Corps center at the former Bethel College site in St. Paul, Minn., does not constitute a major Federal action which will significantly affect the environment.

FOR FURTHER INFORMATION:

Contact Raymond E. Young, Acting Director, Job Corps, Room 6100, Patrick Henry Building, 601 D Street, NW., Washington, D.C. 20213, telephone: 202-376-6995.

SUPPLEMENTARY INFORMATION: Title IV of the Comprehensive Employment and Training Act (CETA) of 1973, as amended, 29 U.S.C. § 911 et seq., directs the Secretary of Labor to establish Job Corps centers to provide occupational training to disadvantaged youths ages 16 through 21. The Secretary has issued regulations published at 29 CFR Part 97a, implementing Title IV of CETA. Pursuant to his authority, the Secretary is planning to establish a Job Corps center at the former Bethel College location.

Pursuant to 40 CFR Part 1500, the Department of Labor has conducted an environmental assessment as part of a site utilization study and has determined that preparation of an environmental impact statement is not required since the establishment of this Job Corps center is not a major Federal action which will significantly affect the quality of the human environment within the meaning of 40 CFR section 1500.6(c). The proposed St. Paul Job Corps Center will be a training center with residential, nonresidential and educational facilities for approximately 450 disadvantaged youth, men, and women, ages 16 through 21, who need and can benefit from intensive employment-related services. The function of the center and the staff of approximately 140

will be to provide skill training in selected vocational courses and continuing and/or remedial education in academic subjects.

The proposed use of the facility is intended for essentially the same purpose as used by the previous occupant, specifically, residential living and education.

The center will be a self-contained facility located approximately midway between Minneapolis and St. Paul. The site surveyed for use by Job Corps consists of 8 buildings on 8.3 acres of land.

The facility is served by municipal water, sewer, national gas and electric power. Renovation of the facility will be make, as required, to meet applicable Federal, State and local standards.

The proposed Job Corps center will be operated in compliance with the Job Corps Environmental Standards published at 29 CFR 97a.116, and with applicable Federal, State and local regulations concerning environmental health.

The proposed Job Corps center will comply with the water quality and related standards of the State and local government, and with the standards established pursuant to the Federal Water Pollution Control Act, 33 U.S.C. § 1251 et seq., with Executive Order 11752, and with regulations and guidelines of the United States Environmental Protection Agency.

The center installation will be designed, operated, and maintained so as to conform to Federal air quality standards, including those found in Executive Order 11752 and 40 CFR Part 86.

Signed at Washington, D.C. this 14th day of February 1978.

RAYMOND E. YOUNG,
Acting Director,
Job Corps.

[FR Doc. 78-4440 Filed 2-16-78; 8:45 am]

[4510-26]

Occupational Safety and Health Administration

NATIONAL ADVISORY COMMITTEE ON OCCUPATIONAL SAFETY AND HEALTH

Meeting

Notice is hereby given that the National Advisory Committee on Occupational Safety and Health (NACOSH) will meet on March 6 and 7 at the New Department of Labor Building, 3rd Street and Constitution Avenue, NW., Washington, D.C. On March 6, the full Committee will meet in Room N-3437. The meeting will begin at 9 a.m. On March 7, the Committee's subgroups will hold meetings. Subgroup I will meet in Room N-3437 A&B; Subgroup II will meet in Room N-3437 C&D. In the afternoon, the two subgroups will hold a joint meeting in Room N-3437. Both morning subgroup meetings will begin at 9 a.m. The joint afternoon session will begin at 1:30 p.m. The public is invited to attend all of these meetings.

The National Advisory Committee was established under section 7(a) of the Occupational Safety and Health Act of 1970 (Pub. L. 91-596) to advise the Secretary of Labor and the Secretary of Health, Education, and Welfare on matters relating to the administration of the Act.

At the March 6 meeting, the Committee will hear a report on the implementation of the Toxic Substances Control Act and the roles OSHA and NIOSH are to play in support of EPA, along with reports on OSHA and NIOSH activities.

At its March 7 meeting, Subgroup I will discuss discriminatory practices in employment of women, the aged, the handicapped, and groups with special medical susceptibilities, which arise because of job safety and health considerations. Subgroup II will develop recommendations on the review procedures and the evaluation criteria to be used in awarding grants under OSHA's New Directions education and training program. The subject of the joint session of the two subgroups will be NIOSH's programs in toxicology and control technology.

For additional information contact:

Stephen Kaffee, Division of Consumer Affairs, Occupational Safety and Health Administration, U.S. Department of Labor, Room N-3635, Washington, D.C. 20210, telephone 202-523-8024.

Written data or views concerning these agenda items may be submitted to the Division of Consumer Affairs. Such documents which are received before the scheduled meeting dates, preferably with 20 copies, will be presented to the Committee and its subgroups, and included in the official record of the proceedings.

Anyone who wishes to make an oral presentation should notify the Division of Consumer Affairs before the meeting date. The request should include the amount of time desired, the capacity in which the person will appear, and a brief outline of the content of the presentation. Oral presentations will be scheduled at the discretion of the chairpersons of the Committee and its subgroups, to the extent which time permits.

Official records of the meetings will be available for public inspection at the Division of Consumer Affairs.

Signed at Washington, D.C., this 15th day of February 1978.

EULA BINGHAM,
Assistant Secretary of Labor.

[FR Doc. 78-4515 Filed 2-16-78; 8:45 am]

[4510-28]

Office of the Secretary

INVESTIGATIONS REGARDING CERTIFICATIONS OF ELIGIBILITY TO APPLY FOR WORKER ADJUSTMENT ASSISTANCE

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has Instituted investigations pursuant to section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than February 27, 1978.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than February 27, 1978.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

Signed at Washington, D.C., this 6th day of February 1978.

MARVIN M. FOOKS,
Director, Office of
Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Ann Dave Sportswear Co. (ILGWU).	Pennsgrove, N.J	Jan. 30, 1978	Jan. 19, 1978	TA-W-3,023	Ladies' dresses and sportswear.
Chromium Mining & Smelting Corp. (USWA).	Memphis, Tenn	Jan. 16, 1978	Jan. 12, 1978	TA-W-3,024	Ferroalloys and chromium products.
Cleveland Cap Screw Co. (company).	Cleveland, Ohio	Jan. 23, 1978	Jan. 18, 1978	TA-W-3,025	Standard and nonstandard capscrews
Ely & Walker, Inc. (workers)	Kennet, Mo	Jan. 30, 1978	Jan. 27, 1978	TA-W-3,026	Men's and boys' western shirts, athletic wear, and swimwear.
Fort Pitt Steel Casting Division, Canval Penn, Inc. (USWA).	McKeesport, Pa	do	Jan. 30, 1978	TA-W-3,027	Carbon and stainless steel castings, carbon alloy and stainless pressure castings, stems, bonnets, wedge gates and other valve bodies and assembly parts.
Hanna Nickel Mining Co., Hanna Nickel Division (USWA).	Riddle, Oreg	Jan. 17, 1978	Jan. 1, 1978	TA-W-3,028	Ferronickel alloys.
Do	do	do	do	TA-W-3,029	Do.
K & M Sportswear, Inc. (ILGWU).	Bridgeton, N.J	Jan. 30, 1978	Jan. 19, 1978	TA-W-3,030	Ladies' slacks, skirts, and shorts.
Kazoo, Inc. (workers)	Kalamazoo, Mich	Jan. 23, 1978	Jan. 16, 1978	TA-W-3,031	Warehousing and distribution facility for slacks which company purchases from other companies.
Kennecott Copper Corp., Nevada Mines Division (IAM & AW).	McGill, Nev	Jan. 30, 1978	Jan. 24, 1978	TA-W-3,032	Mining of copper, milling, and smelting final product—blister copper.
Leesona Corp., Textile Machinery Division (IAM & AW).	Warwick, R.I	do	Jan. 26, 1978	TA-W-3,033	Heavy textile machinery.
Marathon Steel Corp., Pheonix Plant (USWA).	Phoenix, Ariz	Jan. 10, 1978	Jan. 6, 1978	TA-W-3,034	Reinforcing bars.
Nelson Knitting Mills (workers).	Davenport, Iowa	Jan. 9, 1978	Jan. 3, 1978	TA-W-3,035	Active sportswear.
North Shore Manufacturing Co., Inc. (workers).	do	do	do	TA-W-3,036	Do.
New Jersey Zinc Co., Inc. (USWA).	Gilman, Colo	Jan. 31, 1978	Jan. 26, 1978	TA-W-3,037	Zinc concentrate, nickel concentrate and crude ore (iron, copper, and silver).
Pat Richards (ILGWU)	Paulsboro, N.J	Jan. 30, 1978	Jan. 20, 1978	TA-W-3,038	Ladies' dresses.
Rockwell International, Leaf Spring Division (USWA).	New Castle, Pa	Jan. 17, 1978	Jan. 16, 1978	TA-W-3,039	Leaf springs for autos and light trucks and taper-leaf springs for trailer trucks.
United States Steel Corp., Supply Division (USWA).	Dallas, Tex	Jan. 16, 1978	Jan. 12, 1978	TA-W-3,040	Sells United States Steel products to customers that buy in small quantities.
Do	St. Paul, Minn	do	do	TA-W-3,041	Do.
Do	Houston, Tex	do	do	TA-W-3,042	Do.
Do	Kansas City, Mo	do	do	TA-W-3,043	Do.
Do	Brighton, Mass	do	do	TA-W-3,044	Do.
Do	Conshocken, Pa	do	do	TA-W-3,045	Do.
Do	Baltimore, Md	do	do	TA-W-3,046	Do.
Do	Vernon, Calif	do	do	TA-W-3,047	Do.
Do	St. Louis, Mo	do	do	TA-W-3,048	Do.
Do	Newark, N.J	do	do	TA-W-3,049	Do.
Do	Pittsburgh, Pa	do	do	TA-W-3,050	Do.
Do	Cleveland, Ohio	do	do	TA-W-3,051	Do.
Do	Memphis, Tenn	do	do	TA-W-3,052	Do.
Do	Birmingham, Ala	do	do	TA-W-3,053	Do.
Do	Cincinnati, Ohio	do	do	TA-W-3,054	Do.
Do	Chicago, Ill	do	do	TA-W-3,055	Do.
Do	Camden, N.J	do	do	TA-W-3,056	Do.
Do	Petroleum, Ohio	do	do	TA-W-3,057	Do.
Do	Chicago, Ill	do	do	TA-W-3,058	Do.
Do	St. Louis, Mo	do	do	TA-W-3,059	Do.
Do	New Orleans, La	do	do	TA-W-3,060	Do.
Do	Port Arthur, Tex	do	do	TA-W-3,061	Do.
Do	Alameda, Calif	do	do	TA-W-3,062	Do.
U.S. Steel Corp., American Bridge Division (USWA).	Ambridge, Pa	do	do	TA-W-3,063	Structural shapes and steel plate.
U.S. Steel Corp., Fairfield Works (USWA).	Birmingham, Ala	do	do	TA-W-3,064	Railroad products.
Wilbur B. Driver Co. (USWA).	Newark, N.J	Jan. 13, 1978	Jan. 9, 1978	TA-W-3,065	Alloy strip and wire.
Woodbury Dress Co. (ILGWU).	Woodbury, N.J	Jan. 30, 1978	Jan. 19, 1978	TA-W-3,066	Ladies' garments.
Youngstown Sheet & Tube Co. (USWA).	East Chicago, Ill	Jan. 17, 1978	Jan. 16, 1978	TA-W-3,067	Tin plate, hot and cold rolled strip, galvanized strip, bar and bar products.

[FR Doc. 78-4161 Filed 2-16-78; 8:45 am]

[4510-28]

INVESTIGATIONS REGARDING CERTIFICATIONS OF ELIGIBILITY TO APPLY FOR WORKER ADJUSTMENT ASSISTANCE

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than February 27, 1978.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than February 27, 1978.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

Signed at Washington, D.C., this 2nd day of February 1978.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Armor-San Francisco Galvanizing, Inc. (Boilermaker-Blacksmith Union).	San Francisco, Calif	Jan. 19, 1978	Jan. 16, 1978	TA-W-3,004	Hot tip galvanizing.
Canton Textile Mills, Inc., Handley Textile Division (workers).	Roanoke Ala	Jan. 20, 1978	Jan. 18, 1978	TA-W-3,005	Industrial fabrics, greige goods, industrial ducks, shoe trade fabrics, and canvas ducks.
Clarence A. Hackett, Inc. (USWA).	Tonawanda, N.Y	Jan. 16, 1978	Jan. 12, 1978	TA-W-3,006	Processes byproducts from Lackawana Works, Bethlehem Steel Corp. and removes steel and iron to be reused by Lackawana Works, also rents equipment.
Converse Rubber Co. (company).	North Berwick, Maine	Jan. 20, 1978	Jan. 17, 1978	TA-W-3,007	Rubber and canvas footwear and leather athletic footwear.
Harris Corp., Printing Equipment Group (UAW).	Cleveland, Ohio	Jan. 16, 1978	Jan. 12, 1978	TA-W-3,008	Sheet fed offset printing presses, also subcontracting for plants within printing equipment group.
International Shoe Co. (United Shoe Workers of America).	St. Clair, Mo	Jan. 19, 1978	Jan. 6, 1978	TA-W-3,009	Supply plant for the other international shoe plants, shoe bottoms, socks, heels, box toes, and soles are produced.
Lucky Knitting Mills (workers).	Brooklyn, N.Y	Jan. 18, 1978	Jan. 16, 1978	TA-W-3,010	Ladies' sweaters, jackets and men's and ladies' turtlenecks.
National Steel Products Co. (USWA).	Terre Haute, Ind	Jan. 10, 1978	Jan. 5, 1978	TA-W-3,011	Refabricated buildings.
O'Keefe Drilling Co., Inc. (International Union of Operating Engineers).	Butte, Mont	Jan. 16, 1978	Jan. 9, 1978	TA-W-3,012	Exploratory drilling and leach drilling for the Anaconda Co., Butte, Mont.
Rock Hill Printing & Finishing Co., division of M. Lowanstein & Sons (Machine Printers & Engravers Association).	Rock Hill, S.C	Jan. 25, 1978	Jan. 22, 1978	TA-W-3,013	Processes (finish) cloth that is sold to companies that produce drapes, towels, bedspreads, etc.
Roma Printing & Finishing Corp. (company).	Paterson, N.J	Jan. 16, 1978	Jan. 9, 1978	TA-W-3,014	Printing on textile fabrics.
Sarajo Manufacturing Co. (company).	Pierce City, Mo	Jan. 25, 1978	Jan. 10, 1978	TA-W-3,015	Boy's sport and dress shirts and a few men's shirts.
Senate Button Co. (workers)	New York, N.Y	Jan. 19, 1978	Jan. 9, 1978	TA-W-3,016	Two types of bottons, kiscin for women's wear and urea formaldehyde for men's wear.
Sharon Steel Corp., Damascus Tubular Products Division (Damascus Tube Employees Association).	Greenville, Pa	Jan. 16, 1978	Jan. 10, 1978	TA-W-3,017	Welded stainless steel tubing and pipe.
Soule Steel Co., Dominguez plant (USWA).	Carson, Calif	Jan. 10, 1978	Jan. 5, 1978	TA-W-3,018	Fabricating reinforcing steel.
Soule Steel Co., Long Beach steel plant (USWA).	Long Beach, Calif	do	do	TA-W-3,019	Reinforcing steel and steel fence posts.
Soule Steel Co., Phoenix plant (USWA).	Phoenix, Ariz	do	do	TA-W-3,020	Fabricating steel.
Southwestern Bell Telephone Co. (workers).	Newport, Ark	Jan. 17, 1978	Jan. 10, 1978	TA-W-3,021	Telephone operators.
Winchester Hat Corp. (workers).	Winchester, Tenn	do	Jan. 12, 1978	TA-W-3,022	Men's fur felt hat bodies.

[FR Doc. 78-4162 Filed 2-16-78; 8:45 am]

[4510-28]

INVESTIGATIONS REGARDING CERTIFICATIONS OF ELIGIBILITY TO APPLY FOR WORKER ADJUSTMENT ASSISTANCE

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than February 27, 1978.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than February 27, 1978.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

Signed at Washington, D.C., this 31st day of January 1978.

MARVIN M. FOOKS,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Blaw-Knox Foundry & Mill Machinery, Inc., Warwood works (USWA).	Warwood, W. Va	Jan. 10, 1978	Jan. 19, 1978	TA-W-2,994	Industrial steel rolls.
Blaw-Knox Foundry & Mill Machinery, Inc., Wheeling works (USWA).	Wheeling, W. Va	do	do	TA-W-2,995	Industrial steel rolls and industrial mill machinery.
Centre Foundry & Machine Co., Warwood works (USWA).	Warwood, W. Va	do	do	TA-W-2,996	Grey iron castings.
Centre Foundry & Machine Co., Wheeling works (USWA).	Wheeling, W. Va	do	do	TA-W-2,997	Do.
Consolidated Rail Corp., Central Region (workers).	Pittsburgh, Pa	Jan. 12, 1978	Jan. 6, 1978	TA-W-2,998	Transporting of freight.
Hydril Co. (workers)	Youngstown, Ohio	do	Jan. 7, 1978	TA-W-2,999	Threads casting and tubing for the steel industry.
Kentucky Electric Steel Co. (USWA).	Coalton, Ky	Jan. 10, 1978	Jan. 5, 1978	TA-W-3,000	Steel angles, flats and channels.
Sharon Steel Corp., Dearborn Division (USWA).	Dearborn, Mich	do	do	TA-W-3,001	Specialty cold rolled strip, high carbon and alloy strip for auto industry and chain applications, seat belt buckles and applicances produced.
Sharon Steel Corp., Brainard Division (USWA).	Warren, Ohio	do	do	TA-W-3,002	Steel strapings and straping tools.
Sharon Steel Corp. (USWA).	Farrell, Pa	do	do	TA-W-3,003	Low and high carbon strip and forging steel.

[FR Doc. 78-4163 Filed 2-16-78; 8:45 am]

[4510-28]

INVESTIGATIONS REGARDING CERTIFICATIONS OF ELIGIBILITY TO APPLY FOR WORKER ADJUSTMENT ASSISTANCE

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligiblity requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than February 27, 1978.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than February 27, 1978.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210

Signed at Washington, D.C., this 25th day of January 1978.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
A & F Leathers, Inc,. (workers).	Boston, Mass	Jan. 9, 1978	Jan. 6, 1978	2,948	Men's and women's leather coats and jackets.
Alabama By-Products Corp. (United Steelworkers).	Terrant, Ala	Jan. 10, 1978	do	2,949	Coke and coal chemicals.
Alton Box Board Co.	St. Louis, Mo	Jan. 9, 1978	Dec. 23, 1977	2,950	Folding and setup boxes.
Connors Steel Co. (USWA)	Huntington, W.Va	Dec. 19, 1977	Dec. 15, 1977	2,951	Steel products.
Consolidated Rail Corp. (workers) Buckeye Yard Office.	Columbus, Ohio	Jan. 10, 1978	Jan. 4, 1978	2,952	Transports raw materials and steel.
Consolidated Rail Corp. (workers) Mingo Junction Yard.	Mingo Junction, Ohio	Jan. 4, 1978	Dec. 27, 1977	2,953	Do.
Consolidated Rail Corp. Youngstown Consolidated Yard (workers).	Youngstown, Ohio	Dec. 27, 1977	Dec. 21, 1977	2,954	Do.
Kaiser Steel Co., Metal Products Division (workers).	Napa, Calif	Jan. 9, 1978	Jan. 5, 1978	2,955	Steel plate fabricating, pipe mills, wide diameter pipes.
Paris Knitting Mills, Inc. (workers).	Carlstadt, N.J	do	do	2,956	Ladies' knitted wear.
Patapsco & Back Rivers Railroad Co. (United Transportation Workers).	Sparrows Point, Md	do	Jan. 4, 1978	2,957	Transports steel and raw materials.
Reliable Coat Co., Inc. (ILGWU).	Somerset, N.J	do	do	2,958	Women's coats.
The Sherwin Williams Co., Inc. (Painters & Allied Trades Union).	Gibbsboro, N.J	Jan. 10, 1978	Jan. 6, 1978	2,959	Paint, varnish, lacquer, textile dye.
Union Carbide Corp., Carbon Products Division (IUE).	Fostoria, Ohio	Jan. 11, 1978	Dec. 28, 1977	2,960	Welding and gouging electrodes, battery carbons, carbon cloth.
Union Carbide Corp., Linde Division (O.C.A.W.I.U.).	Tonawanda, N.Y	Jan. 10 1978	Jan. 9, 1978	2,961	Cryogenic processing equipment, storage equipment, distribution systems for air separation units.

[FR Doc. 78-4164 Filed 2-16-78; 8:45 am]

[4510-28]

INVESTIGATIONS REGARDING CERTIFICATIONS OF ELIGIBILITY TO APPLY FOR WORKER ADJUSTMENT ASSISTANCE

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than February 27, 1978.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than February 27, 1978.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

Signed at Washington, D.C., this 30th day of January 1978.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Aetna Standard Engineering Co. (USWA).	Ellwood City, Pa	Jan. 10, 1978	Jan. 5, 1978	TA-W-2,973	Heavy machine equipment.
Girltown Corp. (ILGWU)	Boston, Mass	Jan. 12, 1978	Jan. 9, 1978	TA-W-2,974	Girls' sportswear.
Goralnick Shoe Co. (workers).	Haverhill, Mass	do	Jan. 6, 1978	TA-W-2,975	Sock linings used in the shoe industry.
Hy-Gain Electronics Corp. (workers).	Lincoln, Nebr	Jan. 17, 1978	Jan. 11, 1978	TA-W-2,976	Citizen band radios, antennas, service center and warehouse.
Losito Mushroom Co., Inc. (workers).	Toughkenamon, Pa	Jan. 12, 1978	Jan. 9, 1978	TA-W-2,977	Growing and canning mushrooms.
National Steel Service Center, Inc. (USWA).	Des Moines, Iowa	Jan. 10, 1978	Jan. 5, 1978	TA-W-2,978	Warehousing of steel purchased from National Steel's producing facilities.
National Steel Corp., Granite City Steel Division (USWA).	Granite City, Ill	do	do	TA-W-2,979	Flat-rolled products: coke, iron and steel.
National Steel Products Co. Corp., Houston plant (USWA).	Houston, Tex	do	do	TA-W-2,980	Pre-engineered metal buildings.
Pacific Tube Co. (USWA)	Los Angeles, Calif	do	do	TA-W-2,981	Cold-drawn steel tubing and solid steel bars.
Pratt Manufacturing Co., Inc. (workers).	Salineville, Ohio	Jan. 11, 1978	Jan. 7, 1978	TA-W-2,982	Large diameter turntable bearings.
Precision Ball Bearing Co. (company).	Stone Park, Ill	Jan. 12, 1978	Jan. 6, 1978	TA-W-2,983	Ball and roller bearings.
Superior Tube Co. (USWA)	Collegeville, Pa	Jan. 10, 1978	Jan. 5, 1978	TA-W-2,984	Precision metal tubing.
Shenango, Inc. (USWA)	Neville Island, Pittsburgh, Pa.	do	do	TA-W-2,985	Ingot molds.
Do	Sharpsville, Pa	do	do	TA-W-2,986	Do.
Shenango Co. (USWA)	Dover, Ohio	do	do	TA-W-2,987	Drawn iron and steel.
Stupp Bros. Bridge & Iron Co. (USWA).	St. Louis, Mo	do	do	TA-W-2,988	Fabricated structural steel.
Stupp Corp. (USWA)	Baton Rouge, La	do	do	TA-W-2,989	Do.
Titanium Metals Corp., Timet Division (USWA).	Toronto, Ohio	do	do	TA-W-2,990	Titanium mill products.
Universal Bearings Corp. (company).	Stone Park, Ill	Jan. 12, 1978	Jan. 6, 1978	TA-W-2,991	Ball and roller bearings.
Van Huffel Tube Corp. (USWA).	Warren, Ohio	Jan. 10, 1978	Jan. 5, 1978	TA-W-2,992	Welded tubing from carbon steel and coldrolled sheets.
Western Bearings Corp. (company).	Stone Park, Ill	Jan. 12, 1978	Jan. 6, 1978	TA-W-2,993	Ball and roller bearings.

[FR Doc. 78-4165 Filed 2-16-78; 8:45 am]

[4510-28]

INVESTIGATIONS REGARDING CERTIFICATIONS OF ELIGIBILITY TO APPLY FOR WORKER ADJUSTMENT ASSISTANCE

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than February 27, 1978.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than February 27, 1978.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

Signed at Washington, D.C., this 26th day of January, 1978.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Ameron Steel and Wire Producing Division (USWA).	Etiwanda, Calif	Jan. 10, 1978	Jan. 5, 1978	2,962	Reinforcing bars, wire rod, ingots.
Do	Imperial, Calif	do	do	2,963	Steel wire.
Ampco-Pittsburgh Steel Corp. (USWA).	Ambridge, Pa	do	do	2,964	Finishes hot-rolled bars and wire.
Do	Plymouth, Mich	do	do	2,965	Do.
Cyclops Corp., Empire-Detroit Steel Division (USWA).	Portsmouth and Dover, Ohio.	do	do	2,966	Flat-rolled steel, ingots, coke products.
Normal Shoe Co. (workers)	Auburn, N.Y	Jan. 11, 1978	Jan. 10, 1978	2,967	Retail store for ladies' shoes produced by parent company.
Peter Bratti Associates, Inc. (workers).	New York, N.Y	do	do	2,968	Construction of high-rise buildings.
Schmanke Shoe Co. (workers).	Rochester, N.Y	do	do	2,969	Retail store for ladies' shoes produced by parent firm.
Wheeling-Pittsburgh Steel Corp., Fabricating Plant (USWA).	Wheeling, W. Va	Jan. 10, 1978	Jan. 5, 1978	2,970	Roof decking and building materials.
Paulina Sportswear (workers).	Los Angeles, Calif	Dec. 28, 1977	Dec. 23, 1977	2,971	Women's coats.
Y&S Candies Co. (workers)	Brooklyn, N.Y	Dec. 20, 1977	Dec. 11, 1977	TA-W-2,972	Variety of candies.

[FR Doc. 78-4166 Filed 2-16-78; 8:45 am]

[4510-28]

[TA-W-1019]

WILSHIRE KNITTING MILLS, PHILADELPHIA, PA.

Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on August 13, 1976, in response to a worker petition received on that date which was filed by the Knit Goods Workers Union on behalf of workers and former workers producing sweaters at Wilshire Knitting Mills, Philadelphia, Pa.

Notice of Investigation was published in the FEDERAL REGISTER on September 7, 1976 (41 FR 37689). No public hearing was requested and none was held.

During the course of the investigation, it was established that all workers of Wilshire Mills were previously certified eligible to apply for adjustment assistance on November 22, 1975 (See TA-W-163).

The existing certification will expire on October 3, 1976 unless terminated by the Secretary of Labor. Workers newly separated, totally or partially, are covered by the existing certification provided such separation occurred on or after the impact date (October 3, 1974) and before the certification expiration date (October 3, 1976). Thus, a new investigation would serve no purpose; consequently the investigation has been terminated.

Signed at Washington, D.C., this 3rd day of February 1978.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 78-4167 Filed 2-16-78; 8:45 am]

[4510-22]

Office of the Secretary

ADVISORY COMMITTEE TO REVIEW ADVISORY METAL AND NONMETALLIC MINE HEALTH AND SAFETY STANDARDS

Meeting

Pursuant to section 301(b)(2) of the Federal Mine Safety and Health Amendments Act of 1977, Public Law 95-164, enacted November 9, 1977, notice is hereby given that the Advisory Committee to Review Advisory Metal and Nonmetallic Mine Health and Safety Standards will meet for approximately one week beginning Monday, March 6, 1978. Meetings will be held Monday through Friday starting at 9 a.m. local time each day at the New Department of Labor Auditorium, Plaza Level, Third and C Streets NW., Washington, D.C. 20210: *Provided, however,* That the first meeting on March 6, 1978, will begin at 1:30 p.m.

The committee is a statutory committee established to review the advisory health and safety standards issued by the Secretary of the Interior under the Federal Metal and Nonmetallic Mine Safety Act, Pub. L. 89-577, and recommend to the Secretary of Labor which of those standards, or any modifications thereof which do not substantially diminish the health and safety of miners, should be promulgated as mandatory health and safety standards.

The meetings of the advisory committee are open to the public and approximately 200 seats will be available on a first-come first-served basis. Any member of the public may file a written statement with the advisory committee before and during the public meetings. The committee chairman, if he deems it appropriate, may permit members of the public to present oral statements at the meetings.

Copies of the committee agenda are available for examination by the public at the office of, and all written statements, comments, and inquiries should be addressed to Frank J. Delimba, Executive Secretary, Room 703, Ballston Tower No. 3, 4015 Wilson Boulevard, Arlington, Va. 22203, telephone: 703-235-8597.

Dated: February 14, 1978.

RAY MARSHALL,
Secretary of Labor.

[FR Doc. 78-4662 Filed 2-16-78; 11:45 am]

[6820-35]

LEGAL SERVICES CORPORATION

BOARD OF DIRECTORS

Meeting

A meeting of the Board of Directors of the Legal Services Corporation will be held on Thursday and Friday, March 2 and 3, 1978, in Room 405 of the Marvin Center at The George Washington University, 21st and I Streets NW., Washington, D.C.

The meeting will begin at 9 a.m. on both days. The agenda will include matters relating to selection of the Corporation's auditor, review of the fiscal year 1978 budget, status of the 1979 appropriations request, amendments to the Corporation's bylaws that were published on February 1, 1978 (43 FR 4269), regulations 1608, 1612, 1614, 1620 and 1622, the quality improvement grants program, the study of poverty groups' needs required by section 1007(h) of the Legal Services Corporation Act (as amended in 1977), the Corporation's compensation system, officers of the Corporation, receipt of outside compensation by Corporation officers, support centers, clinical education, conflicts between poverty groups in the same community, the 1977 amendments to the Legal Services Corporation Act, headquarters lease negotiations and other issues concerning the Corporation and its activities.

The entire meeting is open to the public. For more information, contact Ruth Felter at the Legal Services Corporation, 733 Fifteenth Street NW., Washington, D.C., phone: 202-376-5100.

THOMAS EHRLICH,
President.

[FR Doc. 78-4520 Filed 2-16-78; 8:45 am]

[6820-35]

BOARD OF DIRECTORS COMMITTEE ON PROVISION OF LEGAL SERVICES

Meeting

A meeting of the Board of Directors Committee on Provision of Legal Services will be held at 7 p.m. on Wednesday evening, March 1, 1978, in the Maryland Suite on the second floor of the Mayflower Hotel, 1127 Connecticut Avenue NW., Washington, D.C.

The agenda will include consideration of the status of the Delivery Systems Study, the quality improvement grants program, and the study required by section 1007(h) of the Legal Services Corporation Act (as amended in 1977).

The entire meeting is open to the public. For more information, contact Barbara Sard at the Legal Services Corporation, 733 Fifteenth Street NW., Washington, D.C., phone: 202-376-5100.

THOMAS EHRLICH,
President.

[FR Doc. 78-4518 Filed 2-16-78; 8:45 am]

[7536-01]

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

EXPANSION ARTS 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 Expansion Arts Advisory Panel to the National Council on the Arts will take place March 7, 1978, from 10 a.m.-5:30 p.m.; March 8, 1978, from 9 a.m.-5:30 p.m.; March 9, 1978, from 9 a.m.-5:30 p.m.; and March 10, 1978, from 9 a.m.-4:30 p.m., in Room 1422, Columbia Plaza Office Building, 2401 E Street NW., Washington, D.C. 20506.

A portion of this meeting will be open to the public on March 7, 1978, from 10 a.m.-12:30 p.m. The topic of discussion will be guidelines.

The remaining sessions of this meeting on March 7, 1978, from 12:30 p.m.-5:30 p.m.; March 8, 1978, from 9 a.m.-5:30 p.m.; March 9, 1978, from 9 a.m.-5:30 p.m.; and March 10, 1978, from 9 a.m.-4:30 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the FEDERAL REGISTER March 17, 1977, these sessions will be closed to the public pursuant to subsections (c) (4), (6), and 9(B) of section 552(b) of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. Robert M. Sims, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call 202-634-6378.

ROBERT M. SIMS,
Administrative Officer, National Endowment for the Arts, National Foundation on the Arts and the Humanities.

FEBRUARY 14, 1978.

[FR Doc. 78-4351 Filed 2-16-78; 8:45 am]

[7536-01]

VISUAL ARTS 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 Visual Arts Advisory Panel (Photography Exhibition Aid, Publications, Surveys) to the National Council on the Arts will take place March 8, 1978, from 9:30 a.m.-5:30 p.m.; March 9,

1978, from 9:30 a.m.-5 p.m.; and March 10, 1978, from 9:30 a.m.-5:30 p.m. in Columbia Plaza Room 1115, 2401 E Street NW., Washington, D.C. 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the FEDERAL REGISTER of March 17, 1977, these sessions will be closed to the public pursuant to subsection (c) (4), (6), and 9(B) of section 552 of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. Robert M. Sims, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call 202-634-6378.

ROBERT M. SIMS,
Administrative Officer, National Endowment for the Arts, National Foundation on the Arts and the Humanities.

FEBRUARY 14, 1978.

[FR Doc. 78-4350 Filed 2-16-78; 8:45 am]

[1505-01]

NATIONAL INSTITUTE OF EDUCATION

INFORMATION AND DATA ACQUISITION ACTIVITY

Collection; Opportunity for Comments

Correction

In FR Doc 78-3435 appearing at page 5072 in the issue for Tuesday, February 7, 1978, on page 5073 in the second complete paragraph of the first column, delete "(insert 30 days from date of publication)" and insert "March 9, 1978."

[7555-01]

NATIONAL SCIENCE FOUNDATION

ADVISORY COMMITTEE FOR MATERIALS RESEARCH, SUBCOMMITTEE ON METALLURGY AND MATERIALS

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Science Foundation announces the following meeting:

SUBCOMMITTEE ON METALLURGY AND MATERIALS OF THE ADVISORY COMMITTEE FOR MATERIALS RESEARCH

Date and time: March 6 and 7, 1978; 9 a.m. to 5:30 p.m. each day.

Place: Room 543, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.

Type of meeting: Open.

Contact person: Dr. Wendell Williams, Section Head, Metallurgy and Materials, Division of Materials Research, National Science Foundation, telephone: 202-632-7406. Persons planning to attend should notify Mrs. Bertha Luster on 202-632-7406.

Summary minutes: May be obtained from the Committee Management Coordinator, Division of Financial and Administrative Management, Room 248, National Science Foundation, Washington, D.C. 20550.

Purpose of subcommittee: To provide advice and recommendations concerning support for research in the materials sciences, especially metallurgy, ceramics and polymers.

Agenda:

March 6, 1978: Background information and overview of activities in the Division of Materials Research. Oversight review of the NSF Polymers Program, including presentations by NSF staff, and the ad hoc subcommittee for oversight of the Polymers Program; preparation of draft report.

March 7, 1978: Discussion of fiscal year 78 budget allocations and of the role of the materials sciences in the activities of the Directorate for Applied Science and Research Applications. Completion of draft report on the Polymers Program. Information items on national facilities monitored by the Division of Materials Research. Discussion of the long range outlook for materials science and engineering, and of instrument needs.

M. REBECCA WINKLER,
Acting Committee Management Officer.

FEBRUARY 14, 1978.

[FR Doc. 78-4456 Filed 2-16-78; 8:45 am]

[7555-01]

ADVISORY COMMITTEE FOR OCEAN SCIENCES, SUBCOMMITTEE FOR OCEANOGRAPHY PROJECT SUPPORT

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 for Oceanography Project Support.

Date and time: March 13 and 14, 1978, 9 a.m. to 6 p.m. each.

Place: Rooms 642 and 643, National Science Foundation, 1800 G Street NW., Washington, D.C.

Type of meeting: Closed.

Contact person: Dr. Robert E. Wall, Head, Oceanography Section, Room 611, National Science Foundation, Washington, D.C. 20550, telephone 202-632-4227.

Purpose of meeting: To provide advice and recommendations concerning support for research in Oceanography.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for closing: The proposals being reviewed included 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 the 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 delegatd the authority to make such determination by the Acting Director, NSF, on February 18, 1977.

M. REBECCA WINKLER,
Acting Committee Management Officer.

FEBRUARY 17, 1978.

[FR Doc. 78-4457 Filed 2-16-78; 8:45 am]

[7590-01]

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-261]

CAROLINA POWER & LIGHT CO.

Issuance Of Amendment To Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 30 to Facility Operating License No. DPR-23, issued to Carolina Power & Light Co. (the licensee), which revised Technical Specifications for operation of the H. B. Robinson Steam Electric Plant Unit No. 2 (the facility) located in Darlington County, Hartsville, S.C. The amendment is effective as of the date of its issuance.

This amendment revises the Robinson-2 Technical Specifications to delete the requirement for hydrostatic testing of steam generator tubes and to impose more restrictive limits on allowable generator tube leakage.

The applications for the amendment comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazard consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the applications for

amendment dated November 4, 1976 and January 4, 1977, (2) Amendment No. 30 to License No. DPR-23, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Hartsville Memorial Library, Home and Fifth Avenues, Hartsville, S.C. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 8th day of February 1978.

For the Nuclear Regulatory Commission.

ROBERT W. REID,
Chief, Operating Reactors Branch No. 4, Division of Operating Reactors.

[FR Doc. 78-4421 Filed 2-16-78; 8:45 am]

[7590-01]

[Docket No. 50-320]

METROPOLITAN EDISON CO. ET AL.

Issuance of a Facility Operating License

Notice is hereby given that pursuant to the Initial Decision of the Atomic Safety and Licensing Board dated December 19, 1977, the Nuclear Regulatory Commission (the Commission) has issued Facility Operating License No. DPR-73 to the Metropolitan Edison Co., Jersey Central Power & Light Co., and Pennsylvania Electric Co., authorizing operation of the Three Mile Island Nuclear Station, Unit 2, by the Metropolitan Edison Co. in accordance with the provisions of the license and the Technical Specifications. The Three Mile Island Nuclear Station, Unit 2, is a pressurized water reactor located at the licensees' site in Londonderry Township, Dauphin County, Pa., about ten miles southeast of Harrisburg.

However, the facility is temporarily restricted from operating at full rated power until certain tests and other items noted in the license conditions are completed to the written satisfaction of the Commission.

The Initial Decision is subject to review by an Atomic Safety and Licensing Appeal Board prior to its becoming final. Any decision or action taken by an Atomic Safety and Licensing Appeal Board in connection with the Initial Decision may Be reviewed by the Commission.

The Commission has made appropriate findings as required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license. The license also includes the condition that the license is subject to the outcome of the proceedings in *Natural Resources Defense Council* v. *NRC* (D.C. Circuit) (July 21, 1976), Nos. 74-1385 and 74-1586. The application for the license complies with the standards and requirements of the Act and the Commission's rules and regulations.

The license is effective as of its date of issuance and shall expire on November 4, 2009.

A copy of (1) Facility Operating License No. DPR-73, complete with Attachments 1 and 2; (2) the report of the Advisory Committee on Reactor Safeguards dated October 22, 1976; (3) the Office of Nuclear Reactor Regulation's Safety Evaluation Report dated September 1976, and Supplements 1 and 2 thereto; (4) the Final Safety Analysis Report and amendments thereto; (5) the applicant's Environmental Report dated February 28, 1975, and supplements thereto; (6) the Draft Environmental Statement dated June 1972; (7) the Final Environmental Statement dated December 1972, (8) the Draft Supplement to the Final Environmental Statement dated July 1976; and (9) the Final Supplement to the Final Environmental Statement dated December 1976, are available for public inspection at the Commission's Public Document Room 1717 H Street NW., Washington, D.C., and the State Library of Pennsylvania, Commonwealth and Walnut Streets, Harrisburg, Pa. 17126.

A copy of the license and item (2) may be obtained upon request addressed to the United States Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Project Management.

Copies of the Safety Evaluation Report (NUREG-0107) and Supplement Nos. 1 and 2, and the Final Environmental Statement (NUREG-0112) may be purchased, at current rates, from the National Technical Information Services, 5285 Port Royal Road, Springfield, Va. 22161.

Dated at Bethesda, Maryland this 8th day of February 1978.

For the Nuclear Regulatory Commission.

STEVEN A. VARGA,
Chief, Light Water Reactors Branch 4, Division of Project Management.

[FR Doc. 78-4422 Filed 2-16-78; 8:45 am]

[7590-01]

[Docket No. 50-298]

NEBRASKA PUBLIC POWER DISTRICT

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 41 to Facility Operating License No. DPR-46, issued to the Nebraska Public Power District (the licensee), which revised the Technical Specifications for operation of the Cooper Nuclear Station (the facility) located in Nemaha County, Nebr. The amendment is effective as of its date of issuance.

The amendment involves changes in the facility Technical Specifications to add four valves to the list or primary containment isolation valves, to add qualification requirements for the Chemistry and Health Physics Supervisor, to alter the method of identifying Safety Review and Audit Board members, to revise the licensee's management organization chart, to delete the respiratory protection program requirements, and to modify certain facility reporting requirements.

The applications for the amendment comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the applications for amendment dated September 16, November 2, and December 23, 1977, (2) Amendment No. 41 to Licensee No. DPR-46, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Auburn Public Library, 118 15th Street, Auburn, Nebr. 68305. A single copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md. this 31st day of January, 1978.

For the Nuclear Regulatory Commission.

DON K. DAVIS,
Acting Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc. 78-4423 Filed 2-16-78; 8:45 am]

[7590-01]

[Docket No. 50-333]

POWER AUTHORITY OF THE STATE OF NEW YORK

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 34 to Facility Operating License No. DPR-59, issued to Power Authority of the State of New York (the licensee), which revised Technical Specifications for operation of the James A. FitzPatrick Nuclear Power Plant (the facility) located in Oswego County, N.Y. The amendment becomes effective 30 days after its date of issuance.

This amendment incorporates fire protection Technical Specifications on existing fire protection equipment and adds administrative controls related to fire protection at the facility. This action is being taken pending completion of the Commission's overall fire protection review of the facility.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment submitted by letter dated August 12, 1977, as supplemented December 16, 1977, (2) the Commission's letter dated November 29, 1977, (3) Amendment No. 34 to License No. DPR-59, and (4) the Commission's related Safety Evaluation issued November 29, 1977. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Oswego County Office Building, 46 East Bridge Street, Oswego, N.Y. A copy of items (2) through (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, attention, Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 31st day of January 1978.

For the Nuclear Regulatory Commission.

ROBERT W. REID,
Chief, Operating Reactors Branch No. 4, Division of Operating Reactors.

[FR Doc. 78-4424 Filed 2-16-78; 8:45 am]

[7590-01]

[Docket Nos. STN 50-566 and STN 50-567]

TENNESSEE VALLEY AUTHORITY, YELLOW CREEK NUCLEAR PLANT, UNIT NOS. 1 AND 2

Issuance of Limited Work Authorization

Pursuant to the provisions of 10 CFR 50.10(e) of the Nuclear Regulatory Commission's (Commission) regulations, the Commission has authorized the Tennessee Valley Authority to conduct certain site activities in connection with the Yellow Creek Nuclear Plant, Unit Nos. 1 and 2, prior to a decision regarding the issuance of construction permits.

The activities that are authorized are within the scope of those authorized by 10 CFR 50.10(e)(1) and 10 CFR 50.10(e)(3) and include the following:

Move office and shop trailers onsite; receive and store plant materials and equipment; upgrade onsite roads; clear, grub, and grade for the plant; install electrical, telephone, air, sewer and water utilities; place foundations; install protective and security fencing; clear, grub, and construct electrical feeder line; install telephone and potable water lines; construct temporary cofferdam and barge dock; relocate public utilities as necessary; clear, grub and grade for safety-related facilities and non-nuclear facilities; place reinforced concrete; place usable excavated earth materials in fill; develop borrow areas for fill materials; clear, grub, and grade access road to plant; clear, grub, grade, and erect visitors' building; if necessary, relocate onsite county road; drill, grout, place fill and dental concrete, or other foundation treatment of rock.

Any activities undertaken pursuant to this authorization are entirely at the risk of the Tennessee Valley Authority and, except as to matters determined under sections 50.10 (e)(2) and (e)(3)(ii), the grant of the authorization has no bearing on the issuance of construction permits with respect to the requirements of the Atomic Energy Act of 1954, as amended, and rules, regulations, or orders promulgated pursuant thereto.

A Partial Initial Decision on matters relating to the National Environmental Policy Act and site suitability was issued by the Atomic Safety and Licensing Board in the above captioned proceeding on February 3, 1978. A copy of (1) the Partial Initial Decision; (2) the applicant's Preliminary Safety Analysis Report and amendments thereto; (3) the applicant's Environmental Report and amendments thereto; (4) the staff's Final Environmental Statement dated November 1977; and (5) the Commission's letter of authorization dated February 9, 1978, are available for public inspection at the Commission's Public Document Room at 1717 H Street NW., Washington, D.C. and at the Corinth Public Library, 1023 Fillmore Street, Corinth, Miss.

Dated at Bethesda, Md., this 9th day of February 1978.

For the Nuclear Regulatory Commission.

WM. H. REGAN, Jr.,
Chief, Environmental Projects Branch 2, Division of Site Safety and Environmental Analysis.

[FR Doc. 78-4425 Filed 2-16-78; 8:45 am]

[7590-01]

[Dockets Nos. 50-266 and 50-301]

WISCONSIN ELECTRIC POWER CO.

Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendments Nos. 33 and 37 to Facility Operating Licenses Nos. DPR-24 and DPR-27 issued to Wisconsin Electric Power Co., which revised Technical Specifications for operation of the Point Beach Nuclear Plant Units Nos. 1 and 2, located in the Town of Two Creeks, Manitowoc County, Wis. The amendments are effective as of the date of issuance.

These amendments delete the Respiratory Protection Section of the Technical Specifications (15.6.12), which were superseded by changes to 10 CFR 20 Section 103 (c) and (f).

The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the Commission's letter dated July 29, 1977, (2) Amendment No. 33 to License No. DPR-24, (3) Amendment No. 37 to License No. DPR-27, and (4) the Commission's

letter dated February 13, 1978. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the University of Wisconsin—Stevens Point Library, Attention: Mr. Arthur M. Fish, Stevens Point, Wis. 54481. A copy of items (2), (3), and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 13th day of February 1978.

For the Nuclear Regulatory Commission.

GEORGE LEAR,
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc. 78-4427 Filed 2-16-78, 8:45 am]

[7590-01]

TOPICAL REPORT

Issuance and Availability

The Nuclear Regulatory Commission has issued a topical report, NUREG-0402, "Analysis of a Worldwide Strong Motion Data Sample to Develop an Improved Correlation Between Peak Acceleration, Seismic Intensity, and Other Physical Parameters."

The Commission's regulations (in 10 CFR Part 100, Appendix A, "Seismic and Geologic Siting Criteria for Nuclear Power Plants") require that applicants relate historic earthquake data (intensity) to potential motion (acceleration). The scientific base for the correlation of peak ground acceleration with intensity has been expanded by increasing the number of strong motion accelerograms included in that base from 1500 to nearly 1600. In addition, this report identifies the significant variables affecting the correlation between intensity and acceleration and assesses the importance of these variables with regard to seismic risk in the Eastern United States.

This work was done by Computer Sciences Corporation under contract to the NRC.

The report is available for inspection in the Commission's Public Document Room at 1717 H Street NW., Washington, D.C. Copies may be purchased at current rates from the National Technical Information Service, Springfield, Va. 22161. (Paper copy: $6.50; Microfiche: $3.)

(5 U.S.C. 552(a).)

Dated at Rockville, Md., this 7th day of February 1978.

For the Nuclear Regulatory Commission.

ROBERT B. MINOGUE,
Director, Office of Standards Development.

[FR Doc. 78-4426 Filed 2-16-78; 8:45 am]

[7590-01]

[Docket Nos. STN 50-522, STN 50-523]

PUGET SOUND POWER & LIGHT CO. ET AL., (SKAGIT NUCLEAR POWER PROJECT, UNITS 1 AND 2)

Order Convening Evidentiary Hearing

The Atomic Safety and Licensing Board has considered with the parties, in accordance with the Rules of Practice of the Commission, respecting a date convenient for reconvening the evidentiary hearings. The Board had proposed convening on March 6th and extending through March 17th and the partied agreed to that schedule. It now appears that March 6th is not a convenient date for the commencement of this session; therefore, the hearings will convene on March 7th and will include, if convenient, a Saturday session on March 11th providing that the federal hearing room space is available.

This session of evidentiary hearings will be limited to geologic and seismic matters pertaining to the proposed site of the Skagit nuclear power facility. No statements by way of limited appearance will be received.

Wherefore, it is ordered, in accordance with the Atomic Energy Act, as amended, and the Rules of Practice of the Nuclear Regulatory Commission, that an evidentiary hearing shall convene at 9 a.m. on Tuesday, March 7, 1978, in Room 3086 of the New Federal Building, 915 Second Avenue, Seattle, Wash., to consider geologic and seismic matters pertinent to the site proposed for the Skagit nuclear power facility.

For the Atomic Safety and Licensing Board.

Issued: February 9, 1978.

SAMUEL W. JENSCH,
Chairman.

[FR Doc. 78-4429 Filed 2-16-78; 8:45 am]

[7590-01]

[Docket No. 50-251]

FLORIDA POWER AND LIGHT CO. (TURKEY POINT PLANT UNIT NO.4)

Order for Modification of License

I.

The Florida Power and Light Co. (the Licensee), is the holder of Facility Operating License No. DPR-41 which authorizes the operation of the nuclear power recator known as Turkey Point Unit No. 4 (the facility) at steady state reactor power levels not in excess of 2200 thermal megawatts (rated power). The facility is a pressurized water reactor (PWR) located at the Licensee's site in Dade county, Fla.

II.

On August 3, 1977, the Nuclear Regulatory Commission ordered Turkey Point Unit No. 4 to perform an inspection of steam generators after 6 equivalent months of cycle 4 operation. By letter dated January 18, 1978, suplemented by letters dated February 1, 1978 and February 9, 1978, the licensee requested approval to continue operation of Turkey Point Unit No. 4 until the end of the current fuel cycle, currently estimated to be about July 22, 1978. The NRC staff has evaluated this information and has assessed continued operation of the facility. This evaluation is set forth in the accompanying Safety Evaluation Report. Based on its review, the staff has concluded that operation of the facility, under the conditions previously imposed, may be continued for an additional period of 6 weeks (7½ equivalent months of cycle 4 operation) and that the limitations contained in this Order will provide reasonable assurance that the public health and safety will not be endangered by continued operation of Unit No. 4. This Order continues in effect the leakage and radioiodine concentration limits imposed.

Copies of the following documents are available for public inspection in the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555 and at the Environmental and Urban Affairs Library, Florida International University, Miami, Fla: (1) the licensee's letter of January 18, 1978, supplemented by letters dated February 1, 1978 and February 9, 1978, (2) the Order for Modification of License, In the Matter of Florida Power and Light Co. (Turkey Point Unit No. 4), Docket No. 50-251 dated August 3, 1977 and (3) this Order for Modification of License, In the Matter of Florida Power and Light Co. (Turkey Point Plant, Unit No. 4), Docket No. 50-251.

III.

Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's Rules and Regulations in 10 CFR Part 2 and 50, *it is ordered*, that paragraph 3.D of Facility Operating License No. DPR-41 is hereby amended as follows:

D. *Steam Generator Operation*

1. Turkey Point Unit No. 4 shall be brought to the cold shutdown condition in order to perform an inspection

of the steam generators after seven and one-half (7½) equivalent months of cycle 4 operation. Nuclear Regulatory Commission approval shall be obtained before resuming power operation following this inspection. For the purpose of this requirement, equivalent operation is defined as operation with a primary coolant temperature greater than 350 F.

Dated in Bethesda, Md. this 10th day of February, 1978.

For the Nuclear Regulatory Commission.

EDSON G. CASE,
Acting Director, Office of Nuclear Reactor Regulation.

[FR Doc. 78-4428 Filed 2-16-78; 8:45 am]

[8010-01]

SECURITIES AND EXCHANGE COMMISSION

[Release No. 14461; SR Amex 77-32]

AMERICAN STOCK EXCHANGE, INC.

Order Approving Proposed Rule Change

FEBRUARY 13, 1978.

On December 7, 1977, the American Stock Exchange, Inc., 86 Trinity Place, New York, N.Y. 10006, filed with the Commission, pursuant to section 19(b) of the Securities Exchange Act of 1934 (the "act"), and rule 19b-4 thereunder, copies of a proposed rule change. The proposed rule change would allow issuers to file a short form listing application incorporating documents publicly filed with the Commission and would eliminate the printing requirement for short form listing applications.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of Commission Release (Securities Exchange Act Release No. 14260, (December 12, 1977)) and by publication in the FEDERAL REGISTER (43 FR 1656 (January 11, 1978)).

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges and, in particular, the requirements of Section 6 and the rules and regulations thereunder. In addition, the Commission finds that the proposed rule change is consistent with Section 12 of the Act which sets forth the registration requirements for securities.

It is therefore ordered, pursuant to section 19(b)(2) of the act, that the above-mentioned proposed rule change be, and it hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

SHIRLEY E. HOLLIS,
Assistant Secretary.

[FR Doc. 78-4359 Filed 2-16-78; 8:45 am]

[8010-01]

[Release No. 20412; 70-6094]

LOUISIANA POWER & LIGHT CO.

Proposal To Operate an Option to Subsequently Acquire Municipal Electric Facilities

FEBRUARY 10, 1978.

Notice is hereby given that Louisiana Power & Light Co. ("Louisiana"), 142 Delaronde Street, New Orleans, La. 70174, a public-utility subsidiary company of Middle South Utilities, Inc. ("Middle South"), a registered holding company, has filed an application with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 9(a) and 10 of the act as applicable to the proposed transaction. All interested persons are referred to the application, which is summarized below, for a complete statement of the proposed transaction.

Louisiana is engaged in the business of generating, transmitting, distributing, and selling electric power and energy. It operates in 46 of the 64 parishes (counties) in the State of Louisiana, including the Parish of Claiborne. Louisiana's operating revenues for the twelve months ended September 30, 1977, aggregated $372,306,000.

The Town of Homer ("Town") is a municipal corporation of the State of Louisiana, located in the Parish of Claiborne, in the northwesterly part of the State. Its estimated population is approximately 4,400 people. The Town owns, operates, and maintains a system for the generation, distribution, and sale of electric power and energy to customers within the corporate limits of the Town, as well as to some customers outside of such corporate limits ("Electric System"). As of September 30, 1977, the Town had 1,939 electric customers. As of June 30, 1977, the Electric System had an estimated depreciated book value of $1,690,000 against an original cost of approximately $3,182,258. For the year ended June 30, 1977, the Electric System had operating revenues of $864,362 and operating expenses of $821,310 or net income from operations of $43,052. The Town presently has outstanding (1) bonds in the aggregate principal amount of $1,662,000 which are payable from the income and revenues of its waterworks and electric systems and plants. Louisiana states that it is its understanding that, at least in part, for financial reasons, the Town has been encountering increasing difficulty in the operation and maintenance of the Electric System.

Pursuant to an invitation of the Town and on the basis of subsequent negotiations, Louisiana, under date of August 31, 1977, submitted to the Town a proposition and offer ("Offer") which provides for the operation and possible ultimate ownership by the company of the Electric System as set forth in an Operating Agreement. A special election was called by the Town and held on October 22, 1977, and resulted in a vote by the electorate in favor of the acceptance of the Offer.

Under the terms of the Operating Agreement, Louisiana, among other things, will be obligated, at its own expense, to operate and maintain the entirety of the Electric System exclusive of the generating facilities ("Distribution System"), providing for the entirety of the electric power supply requirements of the Distribution System and its customers. The company may but will not be obligated to operate and/or maintain the Electric System's generating facilities or any part thereof. Louisiana will also be obligated to make such additions, improvements and replacements to extensions of, and retirements with respect to, the Distribution System as Louisiana, acting as a prudent operator, considers necessary or desirable, and may (but will not be obligated to) make additions, improvements and replacements to, and retirements with respect to, the Generating Facilities. Louisiana will make payments to certain paying agents of amounts necessary to pay the principal of and interest on the Bonds as such principal and interest become due. The company is also obligated to pay the Town 2 percent of the revenues from residential and commercial customers within the corporate limits of the Town. This is standard in all municipalities wherein the company is franchised.

At such time as no Bonds or refunding bonds are any longer outstanding, Louisiana will have the right and option to purchase and acquire from the Town the entirety of the Electric System in consideration of (1) the continued obligation of the company to make certain payments of $25,400 per year to the Town in each of the years 1993 through 1997 and (2) the granting by Louisiana to the Town of the right and option to require Louisiana to pay to the Town in a single lump sum, in lieu of such $25,400 annual payments, the aggregate amount of all such payments then remaining unpaid, discounted on a basis of 10 percent per annum applied against each such payment to the due date thereof.

Louisiana states that in order to integrate service to the Town into its op-

erations, it will be necessary to construct approximately 2 miles of 34.5 KV distribution line and one 34.5/4. 16 KV, 10 MVA substation at an estimated cost of $220,000.

The application states that the Town and its electric customers will be provided with a reliable and adequate supply of electricity and with improved electric service. It is stated that existing facilities of Louisiana virtually surround the Electric System and Louisiana presently has three different 34.5 KV lines coming toward the Town from three different directions all terminating at Louisiana's Homer Switching Station near the Town and serving customers immediately outside the Town. These three 34.5 KV lines have a total power supply capability of 35 MW. Louisiana's 1977 peak load in the area served by these three lines was 21 MW. Therefore, Louisiana's assumption of the Town's load will enable Louisiana to make greater use of an already existing investment; in the same way, the proposed transaction will also enable Louisiana to effect greater utilization of its already existing operating forces in the area; and Louisiana's cost of service per customer to serve the customers of the Electric System will be less than Louisiana's average cost of service per customer. This will reduce the burden on all of Louisiana's existing customers in carrying the fixed charges on Louisiana's existing facilities and the expenses for operating forces, in this otherwise sparsely populated area, thereby benefiting Louisiana's existing customers.

Louisiana does not propose to engage in any program of upgrading to its standards the condition of either the Distribution System or the Generating Facilities. The Distribution System is operable and operating, and Louisiana will ordinarily perform such maintenance and repairs thereon as are required to keep the Distribution System operating reliably. In the future, as the Town's load grows and portions of the existing 4.16 KV distribution system reach their maximum load-handling capability, such portions will, from time to time, be converted to 13.8 or 34.5 KV, thereby extending the life of the remaining portions of the 4.16 KV system. Such conversions will be effected only as required by load growth, and the expenditures therefor will be supported by the increased operating revenues which result. With regard to the Generating Facilities, seven of the eight generating units are operable and operating. Louisiana intends to operate these generating units for peaking or emergency purposes. It is stated that the money budgeted for the repairs and maintenance of the Generating Facilities will keep these units operable and operating to the extent that Louisiana intends to use them. Louisiana sees no necessity for upgrading the condition of the Generating Facilities to its standards. However, the Generating Facilities will be declared to, and on call by, the Middle South System the same as any other generating facilities of Louisiana. In short, Louisiana intends to operate the Electric System on a profitable basis and is of the opinion it can do so and furnish reliable electric service to the Town. Louisiana further states that the ultimate acquisition by the company of the Electric System on a desirable basis is provided for in the Agreement and appears likely.

It is stated that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction. Fees and expenses to be incurred in connection with the proposal are estimated at $9,500, including legal fees of $7,500.

Notice is further given that any interested person may, not later than March 10, 1978, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as filed or as it may be amended, may be granted as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices 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 Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-4360 Filed 2-16-78; 8:45 am]

[8010-01]

[Release No. 14462; SR-PHLX-77-16]

PHILADELPHIA STOCK EXCHANGE, INC.

Order Approving Proposed Rule Change

FEBRUARY 13, 1978.

On December 19, 1977, the Philadelphia Stock Exchange, Inc., 17th and Exchange Place, Philadelphia, Pa. 19103, filed with the Commission, pursuant to Section 19(b) of the Securities Exchange Act of 1934 (the "Act"), as amended by the Securities Acts Amendments of 1975, and Rule 19b-4 thereunder, copies of a proposed rule change. The proposed rule change would increase the supplemental listing fee schedule for securities listed on the Exchange.

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. 14315 (December 28, 1977)) and by publication in the FEDERAL REGISTER (43 FR 1167 (January 6, 1978)).

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges, and in particular, the requirements of section 6, and the rules and regulations thereunder. More specifically, the Commission finds the proposed rule change to be consistent with section 6(b)(4) of the Act which requires the rules of an exchange to provide for the reasonable allocation of dues, fees and other charges among its members and issuers.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act, that the proposed rule change filed with the Commission on December 29, 1977, be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

SHIRLEY E. HOLLIS,
Assistant Secretary.

[FR Doc. 78-4361 Filed 2-16-78; 8:45 am]

[8010-01]

[Release No. 34-14456; File No. SR-MSRB-78-3]

SELF-REGULATORY ORGANIZATIONS

Proposed Rule Changes By Municipal Securities Rulemaking Board

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on January 9, 1978, the abovementioned self-regulatory organization filed with the Securities and Exchange Commission proposed rule changes as follows:

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGES

The Municipal Securities Rulemaking Board (the "Board") is filing the following proposed amendments (hereafter referred to as the "proposed rule changes") to Board rule G-12 relating to uniform practice:

RULE G-12. UNIFORM PRACTICE[1]

(a) and (b) no change.
(c) Dealer confirmations.
(i) through (iv) no change.
(v) Each confirmation shall contain the following information:
(A) through (H) no change.
(I) yield to maturity and resulting dollar price, except in the case of securities which are traded on the basis of dollar price or securities sold at par, in which event only dollar price need be shown (in cases in which securities are priced to *premium* call, *or to par option*, this must be stated, and where a transaction is effected on a yield basis, the [calculation of] dollar price shall be *calculated* to the *lowest* [lower] of price to *premium* call, *price to par option*, or price to maturity);
(J) through (N) no change.
(vi) No change.
(d) No change.
(e) Delivery of securities. The following provisions shall, unless otherwise agreed by the parties, govern the delivery of securities:
(i) through (xii) no change.
(xiii) Delivery of registered securities.
(A) through (E) no change.
(F) Certificate in name of deceased person, trustee, etc.
(1) A certificate shall not constitute good delivery if executed with a qualification, restriction or special designation or if delivered in the name of, or with an assignment or power of substitution executed by a person since deceased; a minor; a receiver in bankruptcy; an agent; an attorney; or, except as provided in subparagraph (2) below, a trustee or trustees (except for trustees acting in the capacity of a board of directors of a corporation or association in which case the requirements of subparagraph (E) above shall apply), [a guardian,] an executor, or an administrator.
(2) No change.
(G) and (H) no change.
(xiv) through (xv) no change.
(f) through (l) no change.

STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule changes are as follows:

PURPOSES OF PROPOSED RULE CHANGES

The purpose of the proposed amendment to subparagraph G-12(c)(v)(I) is to ensure that all relevant call provisions are taken into account in calculating dollar price. Thus, the Board is of the view that the contra party to a transaction should be informed when a security is priced to either a premium call or a par option. (A par option is a call made at par.) The Board also believes that dollar price should be calculated to give the purchaser the benefit of the lowest dollar price, giving effect to all calls which may reasonably be expected to occur.

The purpose of the proposed amendment to item G-12(e)(xiii)(F)(1) is to correct a drafting oversight and clarify that delivery of a certificate registered in the name of a guardian constitutes good delivery under the rule. This would conform the provision in question to longstanding industry practice.

BASIS UNDER THE ACT FOR PROPOSED RULE CHANGES

The Board has adopted the proposed rule changes pursuant to section 15B(b)(2)(c) of the Securities Exchange Act of 1934, as amended (the "Act"), which authorizes and directs the Board to adopt rules which are

designed * * * to foster cooperation and coordination with persons engaged in clearing, settling, processing information with respect to, and facilitating transactions in municipal securities, to remove impediments to and perfect the mechanism of a free and open market in municipal securities, and, in general, to protect investors and the public interest * * *.

COMMENTS RECEIVED FROM MEMBERS, PARTICIPANTS, OR OTHERS ON PROPOSED RULE CHANGES

Comments have not been solicited or received on the proposed rule changes.

BURDEN ON COMPETITION

The Board has determined that the proposed rule changes do not impose any burden on competition.

On or before March 25, 1978, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule changes, or
(B) institute proceedings to determine whether the proposed rule changes should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secertary 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 within 21 days of the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: February 10, 1978.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-4362 Filed 2-16-78; 8:45 am]

[1] *Italics* indicate additions; [brackets] indicate deletions.

[8010-01]

[Release No. 34-14455; File No. SR-MSRB-78-4]

SELF-REGULATORY ORGANIZATIONS

Proposed Rule Change By Municipal Securities Rulemaking Board

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on January 9, 1978, the above-mentioned self-regulatory orgainzation filed with the Securities and Exchange Commission a proposed rule change as follows:

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The Municipal Securities Rulemaking Board (the "Board") is filing the following proposed amendments (hereafter referred to as the "proposed rule change") to Board rule G-15 relating to customer confirmations:

RULE G-15. CUSTOMER CONFIRMATIONS[1]

(a) At or before the completion of a transaction in municipal securities with or for the account of a customer, each broker, dealer or minicipal securities dealer shall give or send to the customer a written confirmation of the transaction containing the following information:

(i) through (vii) no change.
(viii) yield to maturity and resulting dollar price, except in the case of securities which are traded on the basis of dollar price or securities sold at par, in which event only dollar price need be shown (in cases in which securities are priced to *premium* call *or to par option*, this must be stated, and where a transaction is effected on a yield basis, the [calculation of] dollar price shall be *calculated* to the *lowest* [lower] of price to *premium* call, *price to par option*, or price to maturity);
(ix) through (xiii) no change.

STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing rule change are as follows:

PURPOSE OF PROPOSED RULE CHANGE

The purpose of the proposed rule change is to ensure that all relevant call provisions are taken into account in calculating dollar price. Thus, the Board is of the view that customers should be informed when securites are priced to either a premium call or a par option and that a selling dealer should calculate dollar price so as to

[1] *Italics* indicate additions; [brackets] indicate deletions.

assure the customer of the lowest dollar price, giving effect to all calls which may be reasonably expected to occur. (A par option is a call made at par.)

BASIS UNDER THE ACT FOR PROPOSED RULE CHANGE

The Board has adopted the proposed rule change pursuant to the provisions of section 15B(b)(2)(C) of the Securities Exchange Act of 1934, as amended (the "Act"), which directs the Board to propose and adopt rules

* * * designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating clearing, settling, processing information with respect to, and facilitating transactions in municipal securities, to remove impediments to and perfect the mechanism of a free and open market in municipal securities, and, in general, to protect investors and the public interest * * *.

COMMENTS RECEIVED FROM MEMBERS, PARTICIPANTS, OR OTHERS ON PROPOSED RULE CHANGE

Comments have not been solicited or received on the proposed rule change.

BURDEN ON COMPETITION

The Board has determined that the proposed rule change does not impose any burden on competition.

On or before March 25, 1978, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of 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 the caption above and should be submitted on or before March 12, 1978.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

FEBRUARY 10, 1978.

[FR Doc. 78-4363 Filed 2-16-78; 8:45 am]

[8025-01]

SMALL BUSINESS ADMINISTRATION

[License No. 02/02-0322]

THE CINEMA FUND, INC.

Issuance of License To Operate as a Small Business Investment Company

On December 16, 1976, a notice of application for a license as a Small Business Investment Company (SBIC) was published in the FEDERAL REGISTER (41 FR 55015). The original application which provided for SBIC investment specialization in small concerns involved in movie production and distribution was withdrawn on May 15, 1977. On August 5, 1977, a revised application was submitted which provided for restricted investments to movies not to exceed one-third of the dollar amount of the SBIC's portfolio. A revised notice of application for a license as an SBIC was published in the FEDERAL REGISTER on November 9, 1977, (42 FR 58473) stating that an application had been filed with the Small Business Administration (SBA) pursuant to section 107.102 of the regulations governing small business investment companies (13 CFR 107.102 (1977)) for a license as a small business investment company by the Cinema Fund, Inc., 666 Fifth Avenue, New York, N.Y. 10019.

Interested parties were given until the close of business on December 9, 1977, to submit their comments to SBA. No comments were received.

Notice is hereby given that, pursuant to Section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information and the facts with regard thereto, SBA on December 19, 1977, issued License No. 02/02-0322 to the Cinema Fund, Inc., to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: February 1, 1978.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc. 78-4402 Filed 2-16-78; 8:45 am]

[4810-22]

DEPARTMENT OF THE TREASURY

Office of the Secretary

OFFSET PAPER FROM CANADA

Antidumping Proceeding

AGENCY: U.S. Treasury Department.

ACTION: Initiation of Antidumping Investigation.

SUMMARY: This notice is to advise the public that a petition in proper form has been received and an antidumping investigation is being initiated for the purpose of determining whether imports of offset paper from Canada are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended. Sales at less than fair value generally occur when the prices of the merchandise sold for exportation to the United States are less than the prices in the home market.

There appears to be substantial doubt that imports of subject merchandise at less than fair value are the cause of present, or likely future, injury to an industry in the U.S. Thus, as required by the Antidumping Act, 1921, as amended, the case is being referred to the U.S. International Trade Commission for a determination on whether there is no reasonable indication of injury.

EFFECTIVE DATE: February 17, 1978.

FOR FURTHER INFORMATION CONTACT:

Vincent Kane, Operations Officer, U.S. Customs Service, Office of Operations, Duty Assessment Division, Technical Branch, 1301 Constitution Avenue NW., Washington, D.C. 20229, telephone 202-566-5492.

SUPPLEMENTARY INFORMATION: On January 12, 1978, information was received in proper form pursuant to §§ 153.26 and 153.27, Customs Regulations (19 CFR 153.26, 153.27), from the International Paper Co. indicating a possibility that offset paper from Canada is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.).

For purposes of this notice "offset paper" means chemical-wood-pulp based offset printing paper, containing less than 5 percent by weight mechanical wood pulp, whether or not cut to size or shape, not impregnated, not coated, not surface-colored, not embossed, not ruled, not lined, not printed, and not decorated, provided for in item numbers 252.67 and 256.30 of the Tariff Schedules of the United States, Annotated (TSUSA).

The margin of dumping alleged, based on a comparison of prices to the

U.S. with prices in the home market, ranged from 3 to 16 percent.

There is evidence on record concerning injury or likelihood of injury to the U.S. industry from the alleged less than fair value imports. This evidence also indicates, however, that imports of offset paper from Canada only accounted for roughly 2 percent of the U.S. market for this product during the first 10 months of 1977, only a slight increase from 1975 and 1976. Furthermore, the U.S. producers' market share has remained close to 90 percent since 1975. Information also indicates that petitioner's profitability and capacity utilization has improved since 1975. Therefore, on the basis of such evidence it has been concluded that there is substantial doubt of injury, or likelihood of injury to, or prevention of establishment of an industry in the United States by virtue of such imports from Canada. Accordingly, the U.S. International Trade Commission is being advised of such doubt pursuant to section 201(c)(2) of the Act (19 U.S.C. 160(c)(2)).

Having conducted a summary investigation as required by § 153.29 of the Customs Regulations (19 CFR 153.29) and having determined as a result thereof that there are grounds for so doing, the U.S. Customs Service is instituting an inquiry to verify the information submitted and to obtain the facts necessary to enable the Secretary of the Treasury to reach a determination as to the fact or likelihood of sales at less than fair value. Should the International Trade Commission, within 30 days of receipt of the information cited in the preceding paragraph, advise the Secretary that there is no reasonable indication that an industry in the United States is being, or is likely to be, injured, or is prevented from being established, by reason of the importation of such merchandise into the United States, the Department will publish promptly in the FEDERAL REGISTER a notice terminating the investigation. Otherwise the investigation will continue to conclusion.

This notice is published pursuant to section 153.30 of the Customs Regulations (19 CFR 153.30).

ROBERT H. MUNDHEIM,
General Counsel
of the Treasury.

FEBRUARY 14, 1978.

[FR Doc. 78-4483 Filed 2-16-78; 8:45 am]

[7035-01]

INTERSTATE COMMERCE COMMISSION

[Notice No. 591]

ASSIGNMENT OF HEARINGS

FEBRUARY 14, 1978.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC-F-13153, McCarty Truck Line, Inc.—Control—(B) East Nebraska Motor Freight, Inc. and (BB) Kruse Transportation Co., Inc.; MC-F-13168, McCarty Truck Line—Control—Nebraska-Iowa-Missouri Express, Inc.; MC-F-13419, McCarty Truck Line, Inc.—Investigation of Control—East Nebraska Motor Freight, Inc., Kruse Transportation Co., Inc., Nebraska-Iowa-Missouri Express, Inc., and Dewayne Marley, d.b.a. Pile Truck Line; MC 121540 (Sub 4), East Nebraska Motor Freight, Inc.; and MC 121586 (Sub 2), Kruse Transportation Co., Inc., now assigned March 20, 1978 at Lincoln, NE, will be held in Bankruptcy Court Room 543, U.S. Federal Building and Courthouse, 100 Centennial Mall North.

MC 126118 (Sub 38), Crete Carrier Corp., now assigned March 15, 1978 at Lincoln, NE, will be held in Room 2-C, Second Floor, State Office Building, 301 Centennial Mall South; and on March 17, 1978 only, will be heard in the DAS Conference Room, Fifth Floor, State Office Building, 301 Centennial Mall South.

MC 126118 (Sub 40), Crete Carrier Corp., now assigned March 13, 1978 at Lincoln, NE, will be held in Room 2-C, Second Floor, State Office Building, 301 Centennial Mall South.

MC 141641 (Sub-No. 6), Wilson Certified Express, Inc., now assigned March 7, 1978, at Chicago, IL. is canceled and application dismissed.

MC 135082 (Sub 45), Burch Trucking, Inc., d.b.a. Roadrunner Trucking, Inc., now assigned March 7, 1978 at Portland, OR, will be held in Room 103, Pioneer Courthouse, 555 Southwest Yamhill Street.

MC 142809, Don Penick and Harvey Keenan, d.b.a. Double Eagle Trucking, now assigned February 28, 1978, at Olympia, WA is canceled and reassigned for February 28, 1978 (3 days), at Seattle, WA, Edgewater Inn, Room 218, 2411 Alaskan Way.

AB 18 (Sub 21), Chesapeake and Ohio Railway Co. Abandonment of Carferry Service Across Lake Michigan Between Ludington, MI and Kewaunee, Milwaukee, and Manitowoc, WI and AB 31 (Sub 5), Grand Truck Western Railroad Co. and the Grand Trunk Milwaukee Carferry Co. Abandonment of its Lake Michigan Carferry Operation from Eastern Port of Muskegon to Western Port of Milwaukee in Muskegon County, MI and Milwaukee County, WI now being assigned February 21, 1978 for continued hearing at the Offices of the Interstate Commerce Commission in Washington, D.C.

MC 134286 (Sub-No. 34), Illini Express, Inc., application dismissed.

No. 36434, Petition for Declaratory Order and Reconsideration (Commuter Fares-Consolidated Rail Corp., NJ and NY and No. 36474, Benjamin A. Gilman v. Consolidated Rail Corp. and Metropolitan Transportation Authority of New York, now assigned March 13, 1978, at Newburgh, NY, is cancelled and reassigned to March 27, 1978, (2 days), at the County Legislative Chamber, City Government Center, 124 Main Street, Goshen, NY and continued to March 29, 1978 (3 days). at the Suffern Village Hall, 62 Washington Avenue, Suffern, NY.

MC 1515 (Sub 228), Greyhound Lines, Inc., now assigned February 27, 1978, at Chicago, IL., is cancelled.

MC 139999 (Sub 25), Redfeather Fast Freight, Inc. and MC 114632 (Sub 111), Apple Lines, Inc., now assigned March 20, 1978 at Kansas City, MO, will be held in Room 609, Federal Office Building, 911 Walnut Street.

MC 143633, James E. Ashley, d.b.a. Ashley Hauling Equipment Co., now assigned March 16, 1978 at Kansas City, MO, will be held in Room 609, Federal Office Building, 911 Walnut Street.

MC 106074 (Sub 48), B & P Motor Lines, Inc., now assigned March 22. 1978 at Kansas City, MO, will be held in Room 609, Federal Office Building, 911 Walnut Street.

MC 100449 (Sub 75), Mallinger Truck Line, Inc., now assigned March 14, 1978 at Kansas City, MO, will be held in Room 609, Federal Office Building, 911 Walnut Street.

MC 134755 (Sub 109), Charter Express, Inc., now assigned March 15, 1978 at Kansas City, MO, will be held in Room 609, Federal Office Building, 911 Walnut Street.

MC 112070 (Sub-No. 15), Gray Moving & Storage, Inc., application dismissed.

MC 107515 (Sub-No. 1040), Refrigerated Transport Co., Inc., now assigned March 8, 1978, at Chicago, IL., is canceled and application dismissed.

No. MC 95540 (Sub 990), Watkins Motor Lines, Inc., now assigned March 8, 1978, at Washington, DC, is cancelled.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-4441 Filed 2-16-78; 8:45 am]

[Notice No. 592]

ASSIGNMENT OF HEARINGS

FEBRUARY 14, 1978.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

Correction[1]

MC 115826 (Sub 272), W. J. Digby, Inc. now being assigned February 28,

[1] This notice corrects the hearing date from February 22, 1978 to February 28, 1978.

1978 (1 day) at Denver, CO and will be held in Room 158, U.S. Customs House, 721 19th Street.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-4442 Filed 2-16-78; 8:45 am]

[7035-01]

DISCONTINUANCE OF REGIONAL GROUPINGS OF CARRIERS IN MOTOR PUBLICATIONS

FEBRUARY 13, 1978.

The Transport Statistics in the United States, Part 2—Motor (formerly designated Part 7); Statement 750, Financial and Operating Statistics Class I Motor Carriers of Passengers; and, Statement 800, Financial and Operating Statistics Class I Motor Carriers of Property, will no longer be published to include regional groupings. Effective with data for calendar year 1976, groupings will be limited to Eastern, Southern, and Western districts and United States (all districts) totals.

The new format will eliminate statistical distortions, attributed to regional groupings, that may have placed carriers in disadvantageous economic position. The change also will permit more timely release of motor carrier statistics.

Comments on the proposal or requests for further information should be directed to James H. Bayne, Chief, Section of Reports, Interstate Commerce Commission, Washington, D.C. 20423, telephone 202-275-7331.

JAMES B. THOMAS, Jr.,
Director, Bureau of Accounts.

[FR Doc. 78-4443 Filed 2-16-78; 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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[6712-01]

1

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., Wednesday, February 15, 1978.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Special Open Commission Meeting.

CHANGES IN THE MEETING: The following agenda item should be deleted:

Agenda, Item No. and Subject

Common Carrier—3—Modification of procedures in Docket No. 20814, investigation into AT&T's Multi-Scheduled Private Line (MPL) tariff.

CONTACT PERSON FOR MORE INFORMATION:

Samuel M. Sharkey, FCC Public Information Officer, telephone number 202-632-7260.

Issued: February 14, 1978.

[S-363-78 Filed 2-15-78; 10:25 am]

[6740-02]

2

FEBRUARY 15, 1978.

The following notice of meeting is published pursuant to section 3(a) of the Government in the Sunshine Act (Pub. L. No. 94-409), 5 U.S.C. 552b:

Federal Energy Regulatory Commission

TIME AND DATE: February 22, 1978, 10 a.m.

STATUS: Open.

MATTERS TO BE CONSIDERED: (Agenda).

NOTE.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth F. Plumb, Secretary, telephone 202-275-4166.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda, however, all public documents may be examined in the Office of Public Information, Room 1000.

GAS AGENDA, 54TH MEETING, FEBRUARY 22, 1978, REGULAR MEETING

I. PIPELINE RATE MATTERS

A. Pipeline rates (PGA)

RP-1.—Docket No. RP73-65 (PGA No. 78-2), Columbia Gas Transmission Corp.
RP-2.—Reserved.
RP-3.—Reserved.

B. Pipeline rates

RP-4.—Docket No. RP78-18, El Paso Natural Gas Co.
RP-5.—Docket No. RP78-23, Midwestern Gas Transmission Co.
RP-6.—Docket No. RP78-37, Lawrenceburg Gas Transmission Corp.
RP-7.—Docket No. RP78-36, Southern Natural Gas Co.

II. PRODUCER MATTERS

A. Producer certificate

CI-1.—Docket No. CI77-657, American Natural Gas Production Co., et al.
CI-2.—Reserved.
CI-3.—Reserved.

B. Producer rates

CI-4.—Docket Nos. CI61-104, CI68-1146 and CI70-102, Shell Oil Co.
CI-5.—Docket No. RI72-250, Rate Schedule Nos. 318 and 415, Mobil Oil Corp.
CI-6.—Reserved.
CI-7.—Reserved.

C. Special relief

CI-8.—Docket No. RI77-46, Charles D. Jacobs.
CI-9.—Docket No. RI77-45. Joseph P. Mueller.
CI-10.—Docket No. RI77-117, Energy Reserves Group, Inc.

III. PIPELINE CERTIFICATE MATTERS

A. Pipeline certificates

CP-1(A)—Docket No. CP77-363, Columbia Gas Transmission Corp., National Fuel Gas Supply Corp.
(B)—Docket No. CP77-38, Tennessee Gas Pipeline Co., a Division of Tenneco Inc. and National Fuel Gas Supply Corp.
(C)—Docket No. CP76-432, Cabot Corp. Docket No. CP76-19, Columbia Gas Transmission Corp. and the Sylvania Corp. Docket No. CP76-361, Columbia Gas Transmission Corp.
(D)—Docket No. CP77-477, Panhandle Eastern Pipe Line Co.
CP-2.—Docket No. CP77-224, Panhandle Eastern Pipe Line Co. Docket No. CP78-88, Michigan Wisconsin Pipe Line Co.
CP-3.—Docket No. CP78-120, Tennessee Gas Pipeline Co., a Division of Tenneco Inc.
CP-4.—Docket No. CP78-68, Florida Gas Transmission Co. Docket No. CP78-69, Florida Gas Transmission Co. and Transcontinental Gas Pipe Line Corp.
CP-5.—Reserved.
CP-6.—Reserved.

B. Order No. 533 Authorizations

CP-7.—Docket No. CP77-622, Transcontinental Gas Pipe Line Corporation Docket No. CP77-647, Eastern Shore Natural Gas Co. Docket No. CP77-656, Columbia Gulf Transmission Co.
CP-8.—Reserved.
CP-9.—Reserved.

C. Curtailment

CP-10.—Docket No. CP74-149, Consolidated Gas Supply Corp. Docket No. CP78-161, Consolidated Gas Supply Corp.

GAS AGENDA, 54TH MEETING, FEBRUARY 22, 1978 REGULAR MEETING

CAG-1.—Docket Nos. RP71-125 (PGA Nos. 78-1 and 78-1a) and RP77-98 Natural Gas Pipeline Co. of America.
CAG-2.—Docket No. RP78-34, El Paso Natural Gas Co. Docket No. RP78-35, Northwest Pipeline Corp.
CAG-3.—Docket No. RP73-3 (PGA No. 78-2), Transcontinental Gas Pipe Line Corp.
CAG-4.—Docket No. RP75-8 (PGA No. 78-3), Commercial Pipeline Co., Inc.
CAG-5.—Docket No. CP75-3, et al., Trunkline Gas Co.
CAG-6.—Docket No. CI77-365, General American Oil Co. of Texas.
CAG-7.—Docket No. G-896, United Gas Pipe Line Co.
CAG-8.—Docket No. CP77-347, Western Gas Interstate Co.
CAG-9.—Docket No. CP72-53, Trunkline Gas Co. and Texas Gas Transmission Corp.
CAG-10.—Docket No. CP75—202, Natural Gas Pipeline Co. of America. Docket No. CP75-205, Michigan Wisconsin Pipe Line Co.
CAG-11.—Docket No. CP76-500, Cities Service Gas Co.
CAG-12(A)—*Compania de Gas de Neuvo Laredo, S.A.* v. *F.E.R.C.*, D.C. Cir. No. 78-1001
(B)—*Wise Oil Company* v. *F.E.R.C.*, D.C. Cir. No. 78-1026
(C)—*Edwin L. Cox* v. *F.E.R.C.*, 5th Cir. No. 77-3493
(D)—*Transwestern Pipeline Company* v. *F.E.R.C.*, 5th Cir. No. 78-1090
(E)—*United Gas Pipe Line Co.* v. *F.E.R.C.* 5th Cir. No. 78-1091
(F)—*Damson Oil Corp.* v. *F.E.R.C.* 5th Cir. No. 78-1131

POWER AGENDA, 54TH MEETING, FEBRUARY 22, 1978, REGULAR MEETING

I. LICENSED PROJECT MATTERS

P-1. Project No. 401, Michigan Power Co.

II. ELECTRIC RATE MATTERS

ER-1. Docket No. ER78-80, Central Illinois Public Service Co.

ER-2. Docket Nos. ER78-78 and ER78-79, New England Power Co.

ER-3. Docket Nos. ER78-84, ER78-85, ER78-86, Southern California Edison Co., Arizona public Service Co., Nevada Power Co. and Tucson Gas & Electric Co.

ER-4. Docket No. ER77-566, New England Power Co.

ER-5. Docket No. ER76-678, Maine Electric Power Co.

ER-6. Docket No. E-9611, *Columbia Water & Light Department* vs. *Wisconsin Power & Light Company*

ER-7. Docket No. ES78-16, The Union Light, Heat & Power Co.

POWER AGENDA, 54TH MEETING, FEBRUARY 22, 1978, REGULAR MEETING

CAP-1.—Docket No. ER78-106, Kansas City Power & Light Co.

CAP-2.—Docket No. ER78-177, Northern States Power Co. of Minnesota.

CAP-3.—Docket No. ES78-18, Community Public Service Co.

CAP-4.—Project Nos. 2245 and 2614, city of Vanceburg, Ky.

CAP-5.—Project No. 2169, Tapoco, Inc.

CAP-6.—Project No. 2216, Power Authority of the State of New York.

CAP-7.—State Director, Bureau of Land Management, Salt Lake City, Utah, Application (U-37477).

CAP-8.—State Director, Bureau of Land Management, Denver, Colo., Application (C-25762).

CAP-9.—State Director, Bureau of Land Management, Boise, Idaho, Application (I-13431).

CAP-10.—State Director, Bureau of Land Management, Portland, Oreg., Application (OR-17873).

CAP-11.—State Director, Bureau of Land Management, Sacramento, Calif., Application (CA-4212).

CAP-12.—State Director, Bureau of Land Management, Denver, Colo., Application (C-25234).

CAP-13.—State Director, Bureau of Land Management, Denver, Colo., Application (C-25519).

CAP-14.—Docket No. E-9579, Idaho Power Co.

CAP-15.—Docket No. ER77-511, New York Power Pool.

KENNETH F. PLUMB,
Secretary.

[S-376-78 Filed 2-15-78; 3:01 pm]

[6730-01]

3

FEDERAL MARITIME COMMISSION.

TIME AND DATE: 10 a.m., February 22, 1978.

PLACE: Room 12126, 1100 L Street NW., Washington, D.C. 20573.

STATUS: Parts of the meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions open to the public:

1. Items disposed of through the notation system during January. 1978.
2. Report on times shortened for submitting comments on section 15 agreements during the month of January. 1978, pursuant to authority delegated to the Secretary.
3. Report of Applications for Admission to Practice approved during the month of January. 1978, pursuant to authority delegated to the Secretary.
4. Assignment of informal dockets during the month of January. 1978, pursuant to authority delegated to the Secretary.
5. Special Docket No. 489: *Williams, Clarke Company, Inc.* v. *Sea-Land Service, Inc.* Consideration of initial decision.
6. Emergency surcharges in the North and South Atlantic trades.

Portions closed to the public:

1. Matson Navigation Co. general rate increase in the U.S. West Coast/Hawaii trade.
2. Docket No. 76-35: Cancellation of the Consolidation Allowance Rule published in the Freight Tariffs of the Conferences and the Rate Agreement Operating from U.S. Atlantic Ports to Ports in the United Kingdom, Ireland, the Scandinavian Peninsula, and Continental Europe. Consideration of the record.

CONTACT PERSON FOR MORE INFORMATION:

Francis C. Hurney, Secretary, 202-523-5727.

[S-371-78 Filed 2-15-78; 11:26 am]

[6210-01]

4

FEDERAL RESERVE SYSTEM (BOARD OF GOVERNORS).

TIME AND DATE: 10 a.m., Wednesday, February 22, 1978.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Summary Agenda: Because of their routine nature, no substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board request that an item be moved to the discussion agenda.

1. Proposed report to the Comptroller of the Currency regarding the competitive factors involved in the proposed merger of Citizens Bank of Hattiesburg, Hattiesburg, Miss., with First National Bank of Jackson, Jackson, Miss.
2. Proposed amendment to Regulation O (Loans to Executive Officers of Member Banks) regarding credit card indebtedness by executive officers of member banks.
3. Proposed participation in a survey of bank-assisted private placements for the House Banking, Finance and Urban Affairs Committee.

Discussion Agenda: 1. 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: February 14, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. S-369-78 Filed 2-15-78; 8:45 am]

[6750-01]

5

FEDERAL TRADE COMMISSION.

TIME AND DATE: 10 a.m., Wednesday, February 22, 1978.

PLACE: Room 432, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20580.

STATUS: open.

MATTERS TO BE CONSIDERED:

The Commission has not yet scheduled any matters for discussion at this meeting. If no item is placed on the agenda by 10 a.m., on Wednesday, February 22, 1978, the meeting will automatically be cancelled. Any item that is placed on the agenda before that time will be announced in accordance with the Additional Information procedures posted with Commission Meeting notices outside Room 130 of the Federal Trade Commission Building.

CONTACT PERSON FOR MORE INFORMATION:

Wilbur T. Weaver, Office of Public Information: 202-523-3830; Recorded message: 202-523-3806.

[FR Doc. S-372-78 Filed 2-15-78; 1:23 pm]

[6750-01]

6

FEDERAL TRADE COMMISSION.

TIME AND DATE: 10 a.m., Wednesday, February 22, 1978.

PLACE: Room 432, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue, NW., Washington, D.C. 20580.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Nonadjuticative Matters:

(1) Approval of Minutes of Nonadjudicative Matters Considered at Meetings of January 24, and 26, 1978.

(2) Consideration of acceptance of proposed Consent Agreement in Bankers Life and Casualty Co., et al., Docket No. 9075.

Adjudicative Matters Under Part 3 of the Rules of Practice:

(1) Approval of Minutes of Adjudicative Matters Considered at Meetings of January 24, and February 8, 1978.

(2) Consideration of final decision in Reichold Chemicals, Inc., Docket No. 9076.

(3) Consideration of Disposition of Respondent's Appeal from Initial Decision in Fruehauf Corp., Docket No. 8972.

CONTACT PERSON FOR MORE INFORMATION:

Wilbur T. Weaver, Office of Public Information 202-523-3830: Recorded Message: 202-523-3806.

[S-373-78 Filed 2-15-78; 1:23 pm]

[3710-GX]

7

MISSISSIPPI RIVER COMMISSION.

TIME AND DATE: Beginning 8:30 a.m., March 6, 1978, and adjourning 5 p.m., March 7, 1978.

PLACE: 1400 Walnut Street, Vicksbury, Miss.

STATUS: Open to the public for observation but not for participation.

MATTERS TO BE CONSIDERED:

REPORTS OF THE COMMISSION STAFF

(1) Comprehensive Briefing on the Atchafalaya Basin;
(2) Phase I Report on Bushley Bayou;
(3) Survey Report on Helena Harbor;
(4) Briefing on Fifteen Mile Bayou (Supplement to General Design Memorandum);
(5) Progress Report on Shaping of Spoil Banks and Drainage of Borrow Pits;
(6) Standard Design Sections for MR&T Levees—Typical Problems Associated with the Levee System and Remedial Measures, and Special Studies on Problems Areas;
(7) Hydraulic and Hydrologic Aspects of the Flood Control System for the MR&T Project, Including the Refined 1973 MR&T Project Flood Flowline.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Rodger D. Harris, telephone 601-636-1311, extension 205.

[S-377-78 Filed 2-15-78; 3:44 pm]

[7550-01]

8

NATIONAL MEDIATION BOARD.

TIME AND DATE: 2 p.m., Wednesday, March 1, 1978.

PLACE: Board Hearing Room, 8th Floor, 1425 K Street, NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Ratification of Board actions taken by notation voting during the month of February, 1978.
2. Other priority matters which come before the Board for which notice will be given at the earliest practicable time.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Rowland K. Quinn, Jr., Executive Secretary; telephone 202-523-5012.

Dated: February 14, 1978.

[S-378-78 Filed 2-15-78; 3:45 am]

[4910-58]

9

NATIONAL TRANSPORTATION SAFETY BOARD.

TIME AND DATE: 9:30 a.m., Thursday, February 23, 1978 (NM-78-9).

PLACE: NTSB Board Room, National Transportation Safety Board, 800 Independence Ave., SW., Washington, D.C. 20594.

STATUS: The first four items will be open to the public; the fifth item will be closed. (Exemption 10 of the government in the Sunshine Act.)

MATTERS TO BE CONSIDERED:

1. *Highway Accident Report.* Tractor-Semitrailer/Schoolbus Collision and Overturn, Rustburg, Va., March 8, 1977.
2. *Letter.* To Secretary of DOT re UMTA's oversight of Mass Transit authorities.
3. *Discussion.* Communications with Accident Investigation Parties.
4. *Discussion.* Proposed En Banc Hearing on Derailments and Carriage of Hazardous Materials.
5. *Opinion and Order.* Petition of Jensen, Dkt. SM-1749; disposition of petitioner's appeal.

CONTACT PERSON FOR MORE INFORMATION:

Sharon Flemming 202-472-6022.

[S-370-78 Filed 2-15-78; 8:45 am]

[7590-01]

10

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: Week of February 20, 1978.

PLACE: Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Open and closed.

MATTERS TO BE CONSIDERED:

TUESDAY, FEBRUARY 21, 9:30 A.M.

1. Discussion of propsed legislation connected with physical security and related matters. (Approximately 1 hour.) (Public meeting—Portions may be closed.)
2. Discussion of personnel matter. (Approximately 1½ hours. (Closed—Exemption 6.)

TUESDAY, FEBRUARY 21, 1:30 P.M.

1. Discussion of release of staff papers discussed at public meetings. (Approximately 1 hour.) (Public meeting.)

CONTACT PERSON FOR MORE INFORMATION:

Walter Magee, 202-634-1410.

WALTER MAGEE,
Office of the Secretary.

FEBRUARY 14, 1978.

[S-379-78 Filed 2-15-78; 3:45 pm]

[7910-01]

11

RENEGOTIATION BOARD.

DATE AND TIME: Wednesday, March 15, 1978; 10 a.m.

PLACE: Conference Room, 4th Floor, 2000 M Street, NW., Washington, D.C. 20446.

STATUS: Closed to public observation.

MATTER TO BE CONSIDERED:

Poloron Products, Inc. (Consolidated)
Poloron Products of Pa., Inc.
Poloron Products of Miss., Inc.

CONTACT PERSON FOR MORE INFORMATION:

Kelvin H. Dickinson, Assistant General Counsel-Secretary, 2000 M Street, NW., Washington, D.C. 20446, 202-254-8277.

Dated: February 15, 1978.

GOODWIN CHASE,
Chairman.

[S-374-78 Filed 2-15-78; 3:01 pm]

[7910-01]

12

RENEGOTIATION BOARD.

DATE AND TIME: Wednesday, February 22, 1978; 10 a.m.

PLACE: Conference Room, 4th Floor, 2000 M Street, NW., Washington, D.C. 20446.

STATUS: Matters 1 through 9 are open to the public. Matters 10 and 11 are not applicable for status.

MATTERS TO BE CONSIDERED:

1. Approval of minutes of meeting held February 14, 1978 and other Board meetings, if any.
2. Report of the Chairman concerning: (a) Budget, (b) Case processing, (c) Personnel actions, (d) Organization progress of the staff, (e) Rulemaking and regulations.
3. Recommendation for assignment to a division: Bata Shoe Co., Inc., fiscal year ended December 31, 1972.
4. (a) Security Pacific National Bank, fiscal years ended December 31, 1971 through 1975, (b) Security Pacific Leasing Co., fiscal years ended December 31, 1975, (c) Security Pacific National Leasing, Inc., fiscal years ended December 31, 1973, 1974 and 1975.
5. Revision to security clearance procedures.
6. Preliminary report concerning revision of general orders, staff guides and administrative letters.

7. Recommendation to approve request for special accounting agreement: Thiokol Corp., fiscal year ended December 30, 1973 and, subsequent years.
8. Recommended clearances without assignment (List 1894) (a) American Air Filter Co., Inc., fiscal year ended October 31, 1975, (b) Raymond Engineering Inc., fiscal years ended December 31, 1974 and 1975, (c) Charles Kurz and Co., fiscal years ended December 31, 1974 and 1975, (c-1) Keystone Shipping Co., fiscal year ended December 31, 1975, (d) BCS Associates Inc., fiscal year ended December 31, 1975, (e) Kaman Corp. (Holding Co.), fiscal year ended December 31, 1975.
9. Principles and concepts for the application of the statutory factors.
10. Approval of agenda for meeting to be held March 7, 1978.
11. Approval of agenda for other meetings.

CONTACT PERSON FOR MORE INFORMATION:

Kelvin H. Dickinson, Assistant General Counsel-Secretary, 2000 M Street, NW., Washington, D.C. 20446, 202-254-8277.

Dated: February 15, 1978.

GOODWIN CHASE,
Chairman.

[S-375-78 Filed 2-15-78; 3:01 pm]

federal register

FRIDAY, FEBRUARY 17, 1978
PART II

DEPARTMENT OF LABOR

Employment Standards Administration

■

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

General Wage Determination Decisions

[4510-27]

DEPARTMENT OF LABOR

Employment Standards Administration

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

General Wage Determination Decisions

General Wage Determination Decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basis hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed in construction activity of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24-70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates, (37 FR 21138) and of Secretary of Labor's Orders 12-71 and 15-71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General Wage Determination Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

MODIFICATIONS AND SUPERSEDEAS DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

Modifications and Supersedeas Decisions to General Wage Determination Decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the Modifications and Supersedeas Decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24-70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 13-71 and 15-71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing General Wage Determination Decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and Supersedeas Decisions are effective from their date of publication in the FEDERAL REGISTER without limitations as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Office of Special Wage Standards, Division of Wage Determinations, Washington D.C. 20210. The cause for not utilizing the rule-making procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Wage Determination Decision.

MODIFICATIONS TO GENERAL WAGE DETERMINATIONS

The numbers of the decisions being modified and their dates of publication in the FEDERAL REGISTER are listed with each State.

Alabama:	
AL78-1003	Feb. 3, 1978.
Arizona:	
AZ77-5058	June 17, 1977.
Iowa:	
IA77-4224; IA77-4228; IA77-4229; IA77-4230; IA77-4235.	Sept. 30, 1977.
Kansas:	
KS77-4023; KS77-4024; KS77-4025.	Feb. 18, 1977.
Louisiana:	
LA78-4001	Jan. 6, 1978.
Maryland:	
MD77-3080	June 24, 1977.
MD77-3086	Aug. 5, 1977.
MD77-3119	Sept. 9, 1977.
MD77-3130	Sept. 23, 1977.
MD78-3000	Jan. 27, 1978.
New Hampshire:	
NH77-2001; NH77-2002	Jan. 21, 1977.
NH77-2003; NH77-2004	Jan. 28, 1977.
New Jersey:	
NJ77-3093	July 8, 1977.
New York:	
NY77-3087	Do.
Texas:	
TX77-4193	Aug. 19, 1977.
TX77-4262	Sept. 30, 1977.
Virginia:	
VA-3089; VA77-3090; VA77-3091.	July 1, 1977.
Wisconsin:	
WI77-2117	Aug. 19, 1977.

SUPERSEDEAS DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

The numbers of the decisions being superseded and their dates of publication in the FEDERAL REGISTER are listed with each State.

Supersedeas Decision numbers are in parentheses following the numbers of the decisions being superseded.

Connecticut:	
CT77-3131(CT78-3003); CT77-3132) CT78-78-3004).	Sept. 30, 1977.
Illinois:	
IL77-5056(IL78-2008)	June 3, 1977.
Indiana:	
IL77-5056(IL78-2008)	June 3, 1977.
Kentucky:	
IL77-5056(IL78-2008)	June 3, 1977.
Lousiana:	
LA77-4220(LA78-4013)	Sept. 23, 1977.
Mississippi:	
MS76-1137(MS78-1002); MS76-1137 (MS78-1009); MS76-1137(MS78-1010); MS76-1137(MS78-1011); MS78-1137(MS78-1012).	Dec. 17, 1976.
MS77-1130(MS78-1014)	Mar. 25, 1977.
Missouri:	
IL77-5056(IL78-2008)	June 3, 1977.
Ohio:	
IL77-5056(IL78-2008)	June 3, 1977.
Texas:	
TX77-4258(TX78-4015); TX77-4259 (TX78-4014).	Sept. 30, 1977.
West Virginia	
IL77-1056(IL78-2008)	June 3, 1977.

CANCELLATION OF GENERAL WAGE DETERMINATION DECISIONS

None.

Signed at Washington, D.C. this 10th day of February 1978.

RAY J. DOLAN,
Assistant Administrator,
Wage and Hour Division.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #AL78-1003 - Mod. #1. (43-FR-4805 - February 3, 1978) Statewide Alabama					
CHANGE:					
Description of Work: Highway Construction (does not include building structures in rest area projects; bridges over navigable waters; tunnels; and railroad construction).					
DECISION NO. AZ77-5058 - Mod. #6 (42 FR 31056 - June 17, 1977) Statewide, Arizona					
Change:					
Painters (Phoenix Area):					
Zone A					
Brush	$9.85	.60	.40		.08
Spray	10.10	.60	.40		.08
Steel and bridge, brush	10.93	.60	.40		.08
Steel and bridge, spray	11.13	.60	.40		.08
Zone B					
Brush	10.85	.60	.40		.08
Spray	11.10	.60	.40		.08
Steel and bridge, brush	11.93	.60	.40		.08
Steel and bridge, spray	12.13	.60	.40		.08
Zone C					
Brush	12.10	.60	.40		.08
Spray	12.35	.60	.40		.08
Steel and bridge, brush	13.18	.60	.40		.08
Steel and bridge, spray	13.38	.60	.40		.08
Plumbers; Steamfitters:					
Zone I	12.24	.75	1.35		.10
Zone II	12.59	.75	1.35		.10
Zone III	13.01	.75	1.35		.10
Zone IV	14.31	.75	1.35		.10
Sheet Metal Workers:					
Flagstaff, Kingman and Phoenix Area:					
Zone I	10.83	3%+.80	1.30		.10
Zone II	11.48	3%+.80	1.30		.10
Zone III	13.33	3%+.80	1.30		.10
Soft Floor Layers: (Phoenix Area)					
Zone A	9.21	.59	.12		.12
Zone B	10.21	.59	.12		.12
Zone C	10.71	.59	.12		.12

Decision No. AZ77-5058 (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Line Construction:					
Zone I					
Groundmen	9.97	8%	3%+7%		1/2%
Equipment Operators; Powdermen; Mechanics	11.47	8%	3%+7%		1/2%
Linemen; Technicians; Crane Operators; Linemen Welders	12.90	8%	3%+7%		1/2%
Cable Splicers	13.30	8%	3%+7%		1/2%
Zone I-A					
Groundmen	10.81	8%	3%+7%		1/2%
Equipment Operators; Powdermen; Mechanics	12.24	8%	3%+7%		1/2%
Linemen; Technicians; Crane Operators; Linemen Welder	$13.72	8%	3%+7%		1/2%
Cable Splicers	14.20	8%	3%+7%		1/2%
Zone II					
Groundmen	11.59	8%	3%+7%		1/2%
Equipment Operators; Powdermen; Mechanics	13.03	8%	3%+7%		1/2%
Linemen; Technicians; Crane Operators; Linemen Welder	14.52	8%	3%+7%		1/2%
Cable Splicers	14.95	8%	3%+7%		1/2%

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Decision #IA77-4228-Mod. #2 (42 FR 53011-September 30,1977) Johnson(City of Iowa City and abutting municipalities) Co. IA					
Change:					
Cement Masons	$10.09	.45			
Decision #IA77-4229-Mod. #3 (42 FR 53013-September 30,1977) Linn County, Iowa					
Change:					
Cement Masons	10.09	.45			
Decision #IA77-4230-Mod. #4 (42 FR 53015-September 30,1977) Polk County, Iowa					
Change:					
Ironworkers	10.12	.50	.845		.025
Decision #IA77-4235-Mod. #3 (42 FR 53024-September 30,1977) Woodbury (City of Sioux City and abutting municipalities) Co. IA					
Change:					
Bricklayers & Stonemasons	10.63		.40		.01
Lathers	9.20				01
Marble Setters	10 63		.40		.01
Terrazzo Workers	10.83		.40		.01
Decision #IA77-4224-Mod. #3 (42 FR 53004-September 30,1977) Cerro Gordo (City of Mason City) County, Iowa					
Change:					
Glaziers	8.05	.70	.25	4%	

Decision #KS77-4023 - Mod. #2 - (42 FR 10233 - February 18, 1977)-Sedgwick County, Kansas

Decision #KS77-4024 - Mod. #2 - (42 FR 10234 - February 18, 1977)-Barber, Barton, Cheyenne, Clark, Comanche, Decatur, Edwards, Ellis, Ellsworth, Finney, Ford, Grove, Graham, Grant, Gray, Greeley, Hamilton, Haskell, Hodgeman, Jewell, Kearny, Kiowa, Lane, Lincoln, Logan, Meade, Mitchell, Morton, Ness, Norton, Osborne, Pawnee, Phillips, Pratt, Rawlings, Rice, Rooks, Rush, Russell, Scott, Seward, Sheridan, Sherman, Smith, Stafford, Stanton, Stevens, Thomas, Trego, Wallace, and Wichita Counties

Decision #KS77-4025 - Mod. #3 - (42 FR 10235 - February 18, 1977)-Allen, Anderson, Atchison, Bourbon, Brown, Butler, Chase, Chautaugua, Cherokee, Clay, Cloud, Coffey, Cowley, Crawford, Dickinson, Doniphan, Elk, Franklin, Geary, Greenwood, Harper, Harvey, Jackson, Kingman, Labette, Linn, Lyon, Marion, Marshall, McPherson, Montgomery, Morris, Nemaha, Neosho, Osage, Ottawa, Pottawatomie, Reno, Republic, Riley, Saline, Sumner, Wabaunsee, Washington, Wilson and Woodson Counties, and Geary and Riley Counties, for Highway Construction only Kansas

Change:
Description of Work to Read: Highway (does not include bridges over navigable waters, tunnels; building structures in rest areas projects; railroad construction) and Water and Sewer Line Construction

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #LA78-4001 - Mod. #3 (43 FR 1276 - January 6, 1978) Statewide Louisiana					
Change:					
Carpenters:					
Zone 1 - Carpenters	$ 9.00	.50			
Millwrights	9.72	.50			
Piledrivermen	9.90	.50			
Glaziers - Zone 1	9.65				.02
Zone 3	10.025	.17	.30		.01
Power Equipment Operators (Highway Construction):					
Group 5 - Zone 5	5.71	.65	.55		.05
Sheet metal workers - Zone 1	10.97	.40	.27		.10
Zone 3	11.65	.40	.50		.12

DECISION #MD78-3000 - Mod. #2
(43 FR 3867 - January 27, 1978)
Cecil, Caroline, Dorchester, Harford, Kent, Queen Annes, Sommerset, Talbot, Wicomico and Worcester Counties, Maryland

Change:
DESCRIPTION OF WORK:
Highway Construction (does not include bridges over navigable water, tunnels, rest areas which include building structures and railroad construction)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #MD77-3080 - Mod. #5 (42 FR 32476 - June 24, 1977) Baltimore City, Maryland					
Change: DESCRIPTION OF WORK: Highway Construction (does not include bridges over navigable waters; tunnels; rest areas which include building structures; and railroad construction)					
DECISION #MD77-3086 - Mod. #4 (42 FR 39880 - August 5, 1977) Allegany & Garrett Counties, Maryland					
Omit: Roofers: Helpers - Composition (1st yr) Helpers - Composition (2nd yr)					
DECISION #MD77-3119 - Mod. #1 (42 FR 45588 - September 9, 1977 Anne Arundel, Calvert, Carroll, Charles, Frederick, Howard, Montgomery, Prince George's, St. Mary's and Washington Counties, Maryland					
Change: DESCRIPTION OF WORK: Highway Construction (does not include bridges over navigable waters, tunnels, rest areas which include building structures, and railroad construction)					
DECISION #MD77-3130 - Mod. #4 (42 FR 48661 - September 23, 1977) Baltimore County, Maryland					
Change: DESCRIPTION OF WORK: Highway Construction (does not include bridges over navigable water; tunnels; rest areas which include building structures; and railroad construction)					

DECISION NO. NH77-2001- Mod #4
(42 FR 4087- January 21, 1977)
Hillsboro County, New Hampshire

Change:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Bricklayers, cement masons, marble setters, plasterers, stone masons, terrazzo workers, and tile setters:					
Entire county	$8.79	.55	.40		.01
Carpenters:					
Pelham & Greenville	10.40	.60	1.00		.07
Remainder of County:					
Piledrivermen & millwrights	8.80	.65	.50		.01
Carpenters & soft floor layers	7.95	.65	.50		.01
Electricians: Remainder of Co.	10.75	.50	3%		.03
Ironworkers: Structural, ornamental and reinforcing	10.15	1.00	1.00		.02
Plumbers and steamfitters:					
Hudson and Pelham	10.77	1.10	.60		.02
Remainder of County	10.40	.63	.55		.02
Power equipment operators:					
Heavy & Highway Construction:					
Class 1	9.15	.85	.75	a	.05
Class 2	8.90	.85	.75	a	.05
Class 3	8.70	.85	.75	a	.05
Class 4	8.15	.85	.75	a	.05
Class 5	7.825	.85	.75	a	.05
Class 6	7.10	.85	.75	a	.05
Class 7	9.65	.85	.75	a	.05

DECISION NO. NH77-2002 - Mod #4
(42 FR 2090- January 21, 1977)
Merrimack County, New Hampshire

Change:					
Bricklayers, cement masons, marble setters, plasters, stone masons, terrazzo workers, and tile setters	8.79	.55	.40		.01
Carpenters	7.95	.65	.50		.01
Millwrights and piledrivers	8.80	.65	.50		.01
Electricians:					
Hookset	10.75	.50	3%		.03
Remainder of County:					
General contracts $300,000 and over	9.85	.70	3%+.50		.02
General contracts less than $300,000	7.00	.70	3%+.50		.02

DECISON NO. NH77-2002- Mod #4(Cont) (42 FR 2090- January 21, 1977) Merrimack County, New Hampshire	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Ironworkers-- structural, ornamental, and reinforcing	$10.15	1.00	1.00		.02
Plumbersaand steamfitters	10.40	.63	.55		.02
Power equipment operators:					
Class 1	9.15	.85	.75	a	.05
Class 2	8.90	.85	.75	a	.05
Class 3	8.70	.85	.75	a	.05
Class 4	8.15	.85	.75	a	.05
Class 5	7.825	.85	.75	a	.05
Class 6	7.30	.85	.75	a	.05
Class 7	9.65	.85	.75	a	.05
DECISION NO. NH77-2003- Mod #6 (42 FR 5625- January 28, 1977) Rockingham County, New Hampshire					
Change:					
Carpenters:					
Salem:					
Carpenters & Soft floor layers	10.40	.60	1.00		.02
Remainder of County:					
Carpenters & soft floor layers	7.95	.85	.50		.01
Piledrivermen, wharf and dock builders and millwrights	8.80	.65	.50		.01
Electricians: Ramainder of Co.	10.75	.50	3%		.03
Ironworkers-- structural, ornamental, and reinforcing	10.15	1.00	1.00		.02
Painters: Salem:					
Brush	10.06	.82	1.15		.04
Steel	12.18	.82	1.15		.04
Spray and sandblasting	11.06	.82	1.15		.04
Repaint	8.61	.82	1.15		.04

DECISION NO. NH77-2003- Mod #6 (Cont.) (42 FR 5625- January 28, 1977) Rockingham County, N.H.	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Plumbers and Steamfitters:					
Remainder of County	$10.40	.63	.55		.02
Power equipment operators:					
Class 1	10.18	1.10	1.00	a	.03
Class 2	10.06	1.10	1.00	a	.03
Class 3 Building	9.37	1.10	1.00	a	.03
Class 4 Construction	8.63	1.10	1.00	a	.03
Class 5	8.11	1.10	1.00	a	.03
Class 6	7.70	1.10	1.00	a	.03
Class 1	9.37	1.10	1.00	a	.03
Class 2	9.92	1.10	1.00	a	.03
Class 3 Heavy	9.25	1.10	1.00	a	.03
Class 4 Construction	8.185	1.10	1.00	a	.03
Class 5	8.75	1.10	1.00	a	.03
Class 6	7.45	1.10	1.00	a	.03
Class 7	7.51	1.10	1.00	a	.03
DECISION NO. NH77-2004- Mod #4 (42 FR 5629- January 28, 1977) Strafford County, New Hampshire					
Change:					
Bricklayers, cement masons, marble setters, plasterers, stone masons, terrazzo workers, & tile setters	8.79	.55	.40		.01
Carpenters, soft floor layers	8.05	.55	.60		.01
Ironworkers	10.15	1.00	1.00		.02
Plumbers & Steamfitters	10.40	.63	.55		.02
Power equipment operators: Building, and Heavy & Highway	See PEO schedule above (Rockingham County, Mod # 6-- the same)				
DECISION #NJ77-3093 - Mod. #8 (42 FR 35567 - July 8, 1977) Bergen, Essex, Hudson, Hunterdon Middlesex, Morris, Passaic, Somerset, Sussex, Union & Warren Counties, New Jersey					
Change:					
Asbestos Workers:					
Zone 2	$12.71	1.09	1.09		.04

MODIFICATIONS P. 9

DECISION NO. NY77-3087 - MOD. #1
(42 FR 35583 - July 8, 1977)
Erie County, New York

CHANGE:

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$11.31	1.17	.80		.04
BOILERMAKERS	11.05	1.00	1.25		.02
BRICKLAYERS, POINTERS, CAULKERS, CLEANERS AND STONE MASONS	12.39	.55	1.40		
MARBLE MASONS	12.01	.55	1.40		
CARPENTERS: Building Grand Island north of White Haven Road:					
Carpenters	10.39	1.35	1.00		.025
Millwrights	10.49	1.35	1.00		.025
CARPENTERS: Heavy and Highway Carpenters and Piledrivers	8.37	1.35	1.00	a	.025
CEMENT MASONS:					
Cement Masons	12.68		1.25		
Machine Operator	12.85		1.25		
Swing Scaffold	12.95		1.25		
Machine Operator on Swing Scaffold	13.10		1.25		
ELECTRICIANS:					
Electricians	12.49	1.00	3%+1.25	b	.05
Cable Splicers	12.99	1.00	3%+1.25	b	.05
ELEVATOR CONSTRUCTORS	12.51	.745	.56	c+d	.025
ELEVATOR CONSTRUCTORS' HELPERS	8.76	.745	.56	c+d	.025
ELEVATOR CONSTRUCTORS' HELPERS (PROBATIONARY)	6.25				
IRONWORKERS: Grand Island to White Haven Road:					
Structural, Ornamental, Reinforcing, Machinery movers, Riggers, Rodmen, Fence Erectors and Stone Derrickmen	10.82	.51	.82		
Remainder of County:					
Structural, ornamental, reinforcing, Machinery movers, Riggers, Rodmen, Fence Erectors and Stone Derrickmen	11.52	1.06	1.56		
Sheeters	11.92	1.06	1.56		
Sheeters, Buckerup	11.695	1.06	1.56		
LEADBURNERS	10.75	.40	.25	e	.01

MODIFICATIONS P. 10

DECISION NO. NY77-3087-Mod. #1
Continued:

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION					
ELECTRICAL OVERHEAD AND UNDERGROUND DISTRIBUTION WORK:					
Lineman and Technicians	10.00	1.00	3%+.75	f	3½%
Cable Splicers	12.87	1.00	3%+.75	f	3½%
Groundman Digging Machine Operator and Ground man Dynamiteman	9.00	1.00	3%+.75	f	3½%
Groundman mobile Equipment Operator, Mechanic 1st Class, Groundman Truck Driver (tractor trailer units)	8.00	1.00	3%+.75	f	3½%
Groundman Truck Driver, Driver Mechanic, Groundman(experienced)	7.50	1.00	3%+.75	f	3½%
ALL OVERHEAD TRANSMISSION LINE WORK AND LIGHTING FOR ATHLETIC FIELDS:					
Lineman and Technicians	11.25	1.00	3%+.75	f	3½%
Groundman Digging Machine Operator, Groundman Dynamiteman	10.125	1.00	3%+.75	f	3½%
Groundman Mobile Equipment Operator, Mechanic 1st Class, Groundman Truck Driver (tractor trailer unit)	9.00	1.00	3%+.75	f	3½%
Groundman Truck Driver, Driver-Mechanic, Groundman (experienced)	8.4375	1.00	3%+.75	f	3½%
ALL PIPE TYPE CABLE INSTALLATIONS:					
Lineman and Groundman Equipment operator	11.70	1.00	3%+.75	f	3½%
Cable Splicer	$12.87	1.00	3%+.75	f	3½%
Groundman Truck Driver, Groundman (experienced)	8.775	1.00	3%+.75	f	3½%

DECISION NO. NY77-3087-Mod. #1 Continued:

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SUB-STATION, SWITCHING STRUCTURES (when not part of the line), Traffic Signals, Street Lighting and Electrical, Telephone or CATV Commercial Work:					
Linemen and Technicians	11.70	1.00	3%+.75	f	3½%
Cable Splicers	12.87	1.00	3%+.75	f	3½%
Groundman Digging Machine Operator, Mechanic 1st Class, groundman truck driver(tractor-trailer unit)	9.36	1.00	3%+.75	f	3½%
Groundman Truck Driver, Driver-mechanic, Groundman(experienced	8.775	1.00	3%+.75	f	3½%
TELEPHONE AND OTHER COMMUNICATION SYSTEMS, both overhead and underground:					
Linemen and Installer Repairmen	8.34	.40	3%+.25	f	1%
Splicers	8.89	.40	3%+.25	f	1%
Groundman Digging Machine Operator	7.73	.40	3%+.25	f	1%
Groundman	5.72	.40	3%+.25	f	1%
Groundman Truck Driver	6.82	.40	3%+.25	f	1%
Groundman Dynamiteman	6.60	.40	3%+.25	f	1%
MARBLE, TILE AND TERRAZZO FINISHERS	$ 9.51	1.55	.40		
ROOFERS:					
Composition, damp waterproofers, sprayers, asphalt mastic, wood block floor, steep and siders	10.96		1.40		.02
State, Precast Tile and Tile asbestos	11.11		1.40		.02
SPRINKLER FITTERS	12.49	.65	.95		.06
TRUCK DRIVERS, BUILDING, HEAVY AND HIGHWAY:					
Contract Drivers	10.72	.60	.775	g+h	
Euclid	10.97	.60	.775	g+h	

Paid Holidays: A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day E-Thanksgiving Day; F- Christmas Day.

FOOTNOTES:

a. Paid Holidays: C and D

b. Employees shall be given time off with pay on Election day in accordance with New York State Election Laws.

c. Employer contributes 8% of basic hourly rate for 5 years or more of service or 6% basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.

d. Paid Holidays: A through F plus day after Thanksgiving.

e. Paid Holidays: A through F, Good Friday, Washington's Birthday, and Christmas Eve provided the employee has worked 30 full days during the 90 calendar days prior to the holiday and the regularly scheduled work days immediately preceeding and following the holiday.

f. Paid Holidays: A through F, Washington's Birthday, Good Friday and Election Day for President of the U.S. and Governor of New York, provided the employee works the day before and after the holiday.

g. After on year, one week vacation; 2 years, 6 days vacation; 3 years, 7 days vacation; up to 2 weeks maximum vacation after completion of the 5th year, full vacations are earned by a driver who works 1040 hours or more in the claendar year, if an employee works less than 1040 hours in any calendar year, vacation will be prorated for either 1 or 2 weeks of vaction on the basis of using the number of hours worked as the numerator and 1040 as the denominator.

h. Holidays; A through F, except where the employee is laid off 2 of more weeks prior to the holiday.

DECISION NO. NY77-3087-Mod. #1 Continued:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
Building Construction					
GROUP I	12.92	1.00	1.15	a	.15
GROUP II	11.835	1.00	1.15	a	.15
GROUP III	11.68	1.00	1.15	a	.15
GROUP IV	11.64	1.00	1.15	a	.15
GROUP V	11.555	1.00	1.15	a	.15
GROUP VI	8.75	1.00	1.15	a	.15
GROUP VII	11.64	1.00	1.15	a	.15
GROUP VIII	8.435	1.00	1.15	a	.15
GROUP IX	8,68	1.00	.75	a	.15
GROUP X	10.785	1.00	1.15	a	.15
GROUP XI	11.40	1.00	1.15	a	.15
GROUP XII	8.905	1.00	1.15	a	.15
GROUP XIII	11.245	1.00	1.15	a	.15
GROUP XIV	8.535	1.00	.75	a	.15
GROUP XV	12.335	1.00	1.15	a	.15
GROUP XVI	12.835	1.00	1.15	a	.15
GROUP XVII	13.335	1.00	1.15	a	.15
POWER EQUIPMENT OPERATORS:					
Heavy and Highway Construction					
CLASS 5-B	8.84	1.00	.75	a	.15
CLASS 5-C	8.39	1.00	.75	a	.15
DECISION #TX77-4193 - Mod. #5					
(42 FR 42121 - August 19, 1977)					
Bexar County, Texas					
Change:					
Painters:					
Brush; Paperhanger; Taper & floater	$ 8.54		.20		.05
Spray; Structural steel	8.79		.20		.05
Spray on structural steel; sandblasting	9.04		.20		.05
DECISION #TX77-4262 - Mod. #3					
(42 FR 53167 - September 30, 1977)					
Smith County, Texas					
Change:					
Carpenters	8.15				

DECISION NO. VA77-3089 - Mod. #3	Basic Hourly Rates	Fringe Benefits Payments			
(42 FR 34261 - July 1, 1977) Henrico County and the Independent City of Richmond, Virginia		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Power Equipment Operators					
Building Construction:					
Group 1	$ 9.50	.425	.35		.08
Group 2	7.60	.425	.35		.08
Group 3	6.25	.425	.35		.08
Group 4	6.05	.425	.35		.08
Group 5	5.86	.425	.35		.08
Marble, Tile and Terrazzo Workers	8.00				
DECISION NO. VA77-3090 - Mod. #4					
(42 FR 34264 - July 1, 1977)					
The Independent Cities of Norfolk, Chesapeake, Portsmouth and Virginia Beach, Virginia					
Change:					
Power Equipment Operators					
Building Construction:					
Group 1	9.50	.425	.35		.08
Group 2	7.60	.425	.35		.08
Group 3	6.25	.425	.35		.08
Group 4	6.05	.425	.35		.08
Group 5	5.86	.425	.35		.08
Sheet Metal Workers	9.05	.45	.55		.005
DECISION NO. VA77-3091 - Mod. #4					
(42 FR 34266 - July 1, 1977)					
York County and the Cities of Hampton and Newport News (including Langley AFB, Ft. Eustis and Ft. Monroe, Virginia					
Change:					
Power Equipment Operators					
Building Construction:					
Group 1	9.50	.425	.35		.08
Group 2	7.60	.425	.35		.08
Group 3	6.25	.425	.35		.08
Group 4	6.05	.425	.35		.08
Group 5	5.86	.425	.35		.08
DECISION NO. WI77-2117 - MOD. #2					
(42 FR 42172 - August 19, 1977)					
Green Lake, Marquette, Waupaca, Waushara, & Winnebago Counties, Wisconsin					
Change:					
Electricians	$11.08	.60	3%		.5%

SUPERSEDEAS DECISION

STATE: CONNECTICUT COUNTIES: *See Below
DECISION NUMBER: CT78-3003 DATE: Date of Publication
Supersedes Decision No.: CT77-3131 dated September 30, 1977 in 42 FR 52975.

DESCRIPTION OF WORK: Building Construction (including residential), Heavy and Highway Construction

DECISION NO. CT78-3003

*Fairfield, Litchfield, and Windham Counties	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS: Fairfield Co.; Litchfield Co.: Barkhamsted, Bethlehem, Bridgewater, Cornwall, Goshen, Harwinton, Kent, Litchfield, Morris New Hartford, New Milford, Plymouth, Roxbury, Sharon, Torrington, Warren, Washington, Watertown, Winchester, Woodbury, & Thomaston; Windham Co.: Ashford, Chaplin, Eastford, Hampton, Scotland, & Windham	$11.44	.65	1.16		
Litchfield Co.: Canaan, Colbrook Norfolk, N. Canaan & Salisbury; Windham Co.: Woodstock	9.95	.94	1.25		.01
Windham Co.: Brooklyn, Canterbury, Killingly, Plainfield, Pomfret, Putnam, Sterling, & Thompson	10.28	1.00	1.18		
BOILERMAKERS	10.00	.60	10%		.01
BRICKLAYERS: Cement masons; Finishers; Marble masons; Plasterers, Stonemasons; terrazzo workers; Tile setters (Building Construction):					
Fairfield Co.: Bridgeport, Easton, Fairfield, Monroe, Southport, Stratford, & Trumbull	9.85	.75	.75		.03
Fairfield Co.: New Canaan, Norwalk, Ridgefield, Weston, Westport, & Wilton	10.00	.75	.75		.03
Fairfield Co.: Darien & Stampford	10.42	.83	.25		.03
Fairfield Co.: Greenwich	10.25	.55	.55		.03
Fairfield Co.: Bethel, Brookfield Danbury, New Fairfield, Newtown Redding, & Sheman; Litchfield Co.: Bridgewater, Kent, New Milford, & Roxbury	9.80	.75	.75		.03
BRICKLAYERS (CONT'D): Litchfield Co.: Bantam, Barkhamsted, Bethlehem, Canaan, Colebrook, Cornwall, Goshen, Harwinton, Litchfield, Morris, New Hartford, Norfolk, N. Canaan, Salisbury, Sharon, Torrington, Warren, Washington, Winchester, & Winsted	$ 9.60	.75	.75		.03
Windfield Co.	10.00	.75	.75		.03
Litchfield Co.: Plymouth, Thomaston, Watertown, & Woodbury	9.70	.75	.75		.03
BRICKLAYERS (Heavy & Highway Construction): Fairfield Co., except Darien, Greenwich, & Stamford, Litchfield Co., w. of Housatonic River	9.00	.65	.50	b	
Fairfield Co.: Darien & Stamford	9.08	.68	.25	b	
Fairfield Co.: Greenwich	9.09	.56	.45	b	
Litchfield Co., e. of Housatonic River; & Windham Co.	8.95	.65	.50	b	
CARPENTERS; Millwrights; Piledrivermen; & Soft floor layers (Building Construction): Fairfield Co.: Greenwich	9.43	.46	.45		.02
Fairfield Co.: Bridgeport, Easton, Fairfield, Monroe, Stratford, Trumbull, Weston, & Westport, & that part of Orange from Orange Center Road w. to Milford & the Oyster River situated in Orange	10.00	.80	.50	c	a
Fairfield Co.: Bethel, Brookfield, Danbury, Darien, New Canaan, New Fairfield, Newtown, Redding, Ridgefield, Sherman, Stamford, & Wilton; Litchfield Co.: Barkhamsted, Bethlehem, Bridgewater, Canaan, Colebrook					

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS (CONT'D):					
Cornwall, Goshen, Kent, Litchfield, Morris, New Hartford, New Milford, Norfolk, Norwalk, Roxbury, Salisbury, Sharon, Torrington, Warren, Washington, Winchester, & Woodbury	$ 9.85	.70	.45		.10
Litchfield Co.: Harwinton, Plymouth, & Terryville	9.80	.70	.45		.05
Fairfield Co.: Shelton	9.35	.35	.30	d	
Litchfield Co.: Morris (S of Rte #109), Northfield, Thomaston, & Watertown	9.35	.50	.30	e	.03
Windham Co.	10.00	.80	.55		.03
CARPENTERS (Heavy & Highway Construction):					
Fairfield Co.: Bridgeport, Easton, Fairfield, Monroe, Shelton Stratford, Trumbull, Weston, & Westport	9.85	.75	.85	f	a
Fairfield Co.: Bethel, Brookfield, Danbury, Darien, New Canaan, New Fairfield, Newtown, Norfolk, Redding, Ridgefield, Sherman, Stamford & Litchfield Co.	9.80	.80	.55	f	.10
Fairfield Co.: Greenwich	9.85	.75	.85	f	.02
Windham Co.	9.80	.80	.55	f	.03
ELECTRICIANS:					
Fairfield Co.: Norwalk (E. of Five Mile River), Weston, Westport, & Wilton					
Building construction	10.10	.68	3%+.30	6%	½%
Residential construction	5.30	.68	3%+.30	6%	½%
Fairfield Co.: Bethel, Bridgeport, Brookfield, Danbury, Easton, Fairfield, Monroe, New Fairfield, Newtown, Redding, Ridgefield, Shelton, Sherman, Stratford, & Trumbull; Litchfield Co.: Bridgewater, & New Milford					
Building construction	10.40	1.10	3%+.30		½%
Residential construction	5.65	1.10	3%+.20		½%

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS (CONT'D):					
Fairfield Co.: Darien, Greenwich, New Canaan, & Stamford	$11.58	1.35	7½%+1.50	1.15	.06
Litchfield Co.: Plymouth					
Building construction	10.17	1.00	3%+.50		½%
Residential construction	5.53	1.00	3%+.50		½%
Windham Co.:					
Building construction	11.30	1.50	3%+.50		½%
Residential construction	5.50	.75	3%+.45		½%
Litchfield Co.: Rem. of Co.	10.30	.82	3%+.60	g	1/8%
ELEVATOR CONSTRUCTORS	10.35	.545	.35	4%+h+i	.02
ELEVATOR CONSTRUCTORS' HELPERS	7.245	.545	.35	4%+h+i	.02
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	5.175				
GLAZIERS:					
Fairfield Co.: Greenwich	9.10	.66	1.66	.365	.03
Fairfield Co.: Rem of Co.; & Litchfield Co.	9.83	.95	.47	j	.01
Windham Co.	11.41	.84	.55	k	
IRONWORKERS:					
Ornamental; Reinforcing; Structural; and Precast concrete erection	11.95	.75	1.30	1	.08
LATHERS:					
Fairfield Co.: Bridgeport, Easton, Fairfield, Monroe, Redding, Ridgefield, Shelton, Stratford, Trumbull, Weston Westport, & Wilton	9.73	.35	.40		.01
Fairfield Co.: Greenwich, New Canaan, Norwalk, & Stamford	8.51	.35	.20	.75	.01
Fairfield Co.: Bethel, Brookfield, Danbury, New Fairfield Newtown, & Sherman; Litchfield Co.: Bethlehem, Bridgewater, Cornwall, Goshen, Harwinton, Litchfield, Morris, New Milford N. Canaan, Plymouth, Roxbury, Thomaston, Torrington Warren, Washington, Watertown, & Woodbury	9.65	.35	.30		.01

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LATHERS (CONT'D):					
Litchfield Co.; Barkhamsted, Colebrook, New Hartford, Norfolk & Winchester; Windham Co.: Chaplin, Hampton, Scotland, & Windham	$ 9.90	.50	.30		.01
Windham Co.: Danielson	9.25	.45	.55		.01
LEADBURNERS	9.25	.35		m	.01
LINE CONSTRUCTION:					
Fairfield Co.: Darien, Greenwich, New Canaan, Stamford, & that portion of Norwalk, w. of Five Mile River					
Linemen	9.33	3-3/4%	6%+n+o	10%	½%
Cable splicers	9.33	3-3/4%	6%+n+o	10%	½%
Driver groundmen	9.33	3-3/4%	6%+n+o	10%	½%
Fairfield Co.: Rem. of Co.; Litchfield Co.; & Windham Co.					
Linemen	10.92	.70	3%+.50	p	
Equipment operators	10.19	.70	3%+.50	p	
Driver groundmen	7.87	.70	3%+.50	p	
MARBLE SETTERS' HELPERS:					
Fairfield Co.: Darien, Greenwich, Norfolk, Stamford, & Westport	7.33	.74	.88	q	
MARBLE SETTERS' HELPERS; Terrazzo workers' helpers; & Tile setters' helpers:					
Fairfield Co.: Rem. of Co.; Litchfield Co.; & Windham Co.	8.65	.50	.65		
PAINTERS:					
Bridge:					
Structural steel	12.00				
Spray	15.50				
Sandblasting or power tools	13.00				
Fairfield Co.: Greenwich					
Brush; Structural steel; Paperhangers; Tapers	8.40	.20	.75	.30	
Spray	12.60	.20	.75	.30	
Fairfield Co.: Bridgeport, Easton, Fairfield, Southport, Stratford and Trumbull					
Brush	8.65	.50	.65	r	
Spray	10.65	.50	.65	r	
Taper	9.04	.50	.65	r	

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS (CONT'D):					
Fairfield Co.: Darien, Stamford, New Canaan, Norwalk, Weston, Westport, & Wilton					
Brush	$ 8.35	.50	.50		.01
Roller, paperhangers, tapers epoxy	8.85	.50	.50		.01
Fairfield Co.: Bethel, Brookfield, Danbury, New Fairfield Newtown, Redding, Ridgefield, Sandy Hook & Sherman; Litchfield Co.: New Milford					
Brush, Roller	10.35	.50	.40		
Steel	11.45	.50	.40		
Paperhangers; Tapers	9.70	.50	.40		
Epoxy	11.85	.50	.40		
Residential	8.60	.50	.40		
Fairfield Co.: Byram					
Brush	8.15	.45	.45+.426/7	.40	
Spray	9.15	.45	.45+.426/7	.40	
Steel & Swing stage & boatswain chair	9.313/7	.45	.45+.426/7	.40	
Drywall taper	8.95	.45	.45+.426/7	.40	
Fairfield Co.: Monroe & Shelton					
Brush	10.00	.50	.80	s	.01
Hand roller; Paperhangers	10.50	.50	.80	s	.01
Structural steel, epoxy, polyester	11.00	.50	.80	s	.01
Spray	13.50	.50	.80	s	.01
Windham Co.: Willimantic & Windham					
Brush,; Tapers	10.00	.80	.60		
Paperhangers	10.50	.80	.60		
Riding steel; Steamcleaning; Sandblasting; Tanks; Towers; & Hazardous work	10.58	.80	.60		
Spray	13.00	.80	.60		
Litchfield Co.: Bantam, Barkhamsted, Canaan, Colebrook, Cornwall, Goshen, Harwinton, Kent, Litchfield, New Hartford New field, N. Canaan, Plymouth Salisbury, Sharon, Terryville					

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS (CONT'D):					
Torrington, Warren, Winchester, & Winsted					
Brush; Roller; Taping	$ 9.60	.80	.45		
Spray; High	12.00	.80	.45		
Epoxy	9.85	.80	.45		
Paperhanging	10.10	.80	.45		
Work over 60' & Boatswain chair;Open steel	14.40	.80	.45		
Swing Stage 40-60	10.60	.80	.45		
Windham Co., except Willimantic & Windham					
Brush	9.90	.50	.70		.01
Paperhangers	10.20	.50	.70		.01
Sign	10.28	.50	.70		.01
Taping	10.30	.50	.70		.01
Roller	10.40	.50	.70		.01
Structural steel	10.70	.50	.70		.01
Spraying oil paint	13.05	.50	.70		.01
Spraying epoxy	15.58	.50	.70		.01
PLUMBERS:					
Windham Co.: Windham	10.10	.62	.62		.20
PLUMBERS; Steamfitters:					
Fairfield Co.: Greenwich	10.00	.45	.70		.02
Fairfield Co.: Bridgport, Easton, Fairfield, Monroe, Shelton, Stratford, & Trumbull	10.49	.75	70	.42	.01
Fairfield Co.: Georgetown, Norwalk. S. Norwalk, Weston, Westport & Wilton	9.50	.75	.50	.36	.02
Fairfield Co.: Bethel, Brookfield, Danbury, New Fairfield Newtown, Redding, Ridgefield, & Sherman; Litchfield Co.: Bridgewater, & New Milford	10.70	.75	.70	.50	.02
Fairfield Co.: Darien, New Canaan, & Stamford	10.20	.75	.70	4%	.02
Litchfield Co.: Bantam, Barkhamsted, Canaan, Colebrook, Cornwall, Falls Village, Goshen, Harwinton, Kent, Lakeville, Litchfield, Morris, New Hartford, Norfolk, N. Canaan, Salisbury, Sharon, Torrington, Warren, Winchester, & Winstead	9.64	.83	.70	t	.05

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLUMBER: Steamfitters (CONT'D):					
Litchfield Co.: Bethlehem, New Preston Plymouth (incl. Terryville), Roxbury, Thomaston, Washington, Watertown & Woodbury	$10.00	.83	.70	t	.05
Windham Co., except Windham	11.92	.60	.70	u	.05
ROOFERS:					
Fairfield Co., ecept that portion of Fairfield Co. bounded on the e. by the eastern boundary of Greenwich; Litchfield Co.: Bethlehem, Bridgewater, Kent New Milford, Roxbury, Washington & Woodbury	10.15	1.05	.45		
Litchfield Co.: Bantam, Canaan Colebrook, Cornwall, Cornwall Bridge, E. Canaan, Falls Village, Gaylordsville, Goshen Lakeside, Litchfield, Marbledale, Morris,New Hartford, New Preston, Norfolk, Northfield, Oakville, Pequabuck, Pine Meadow Pleasant Valley, Plymouth, Riverton, Salisbury, Sharon, S. Kent, Taconic, Terryville, Thomaston,Torrington, Washington Depot,Watertown, W. Cornwall, W. Goshen, Winchester Center, & Winsted; Windham Co.					
Composition	8.75	.525	.70	.55	
Slate & tile	9.25	.525	.70	.55	
Fairfield Co.: that portion of Fairfield Co. bounded on the e. by the eastern boundary of Greenwich					
Slate & Tile	9.20	.50	1.40	1.40	
Helpers	7.50	.50	1.00	1.00	
SHEET METAL WORKER:					
Fairfield Co.; Litchfield Co.	11.19	9½%	7%		.02
Windham Co.	10.55	.70	.86		.05

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SPRINKLER FITTERS	$11.38	.65	.95		.08
STEAMFITTERS:					
Windham Co.: Windham	10.27	1.16	.66		.13
TILE SETTERS' HELPERS:					
Fairfield Co.: Darien, Greenwich, Stamford, Norfolk, & Westport	7.58	.50	1.27		

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PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D- Labor Day; E-Thanksgiving Day; F- Christmas Day.

FOOTNOTES:

a. 50 per worker per year.
b. 1 paid holiday: Good Friday. Employee must work 3 days during the work week in which the holiday falls, if scheduled, and if scheduled, the working day before and the working day after the holiday.
c. 4 paid holidays: B, C, D, and Good Friday. Employee must be employed 14 consecutive days immediately, prior to the holiday.
d. 3 paid holidays: C, D, and E.
e. 4 paid holidays: B, C, D, and E.
f. 3 paid holidays: B, C, and D.
g. The last 4 regular working hours prior to Christmas shall be paid half day.
h. 6 paid holidays: A through F
i. Employer contributes 4% of basic hourly rate for 5 years or more of service or 2% basic hourly rate for 6 months to 5 years of service as vacation pay credit.
j. 9 paid holidays: A through F, Washington's Birthday, Good Friday, and Columbus Day.
k. 9 paid holidays: A through F, Washington's Birthday, Good Friday and Columbus Day.
l. The last 4 hours on Christmas Eve is a paid half day if employee has worked 5 consecutive days prior to Christmas Eve.
m. 9 paid holidays: A through F, Washington's Birthday, Good Friday, and Christmas Eve provided the employee has worked 45 full days for the employer during the 120 days prior to the holiday and is available for work the day preceding and following the holiday.
n. 1% of the gross electrical labor payroll.
o. Employer contributes $1.50 per day to a supplemental unemployment fund.
p. 9 paid holidays: A through F, Washington's Birthday, Good Friday, and a floating holiday per year provided the employee has been employed for a period of 5 working days prior to the holidays and works the scheduled work days immediately preceding and following the holidays
q. 1 paid holiday: St Patrick's Day
r. 2 paid holidays: C and D providing the employee works the day before and the day after the holiday.
s. 4 paid holidays: B, C, D, and E providing the employee works the day before and the after the holiday
t. 2 paid holidays: B and D and half day paid holiday the Friday after Thanksgiving and the last working day before Christmas and Good Friday paid half day
u. 1 paid holiday: D
y. 3% of gross earnings to SASMI

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POWER EQUIPMENT OPERATORS (Building Construction)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
Derrick; Hoisting engineer 2 drums and over; Hoisting structural steel; Pile driver; & Setting stone	$11.32	.80	.75	a	.10
Dragline; Forklift - over 4' lift; Front end loader - 7cy. or over; Gradall; Hoisting engineer (all types of equipment where a drum and cable are used to hoist, pull, motive power or operation); koehring scooper loader and/or hoe; Master mechanic; Shovel; & Tower crane	11.21	.80	.75	a	.10
Maintenance engineer	11.11	.80	.75	a	.10
Central mix operator; Coleman loader and screening plant or similar equipment; Combination hoe and loader over ½yd; Conveyors - regardless of motive power; Front end loader 3cy. up to 7 cy.; Joy drill limited to joy heavy weight champion or equivalent; Mucking machine; Post hole digger; Pumpcrete machine; Rock boring machine; Vibratory hammer; Welder; & Well digger	10.85	.80	.75	a	.10
Compressor battery operator	10.06	.80	.75	a	.10
Asphalt spreader	10.64	.80	.75	a	.10
Bulldozer; Carry-all operators; Grader; & Scraper pan	10.58	.80	.75	a	.10
Combination hoe and loader machine; Concrete mixer - 5 bags over; Front end loader under 3 cy.; Powerstone speader	10.53	.80	.75	a	.10
Air and steam valve	9.80	.80	.75	a	.10
Compressor; Generator; Pump and Well point; Welding machine	9.69	.80	.75	a	.10

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POWER EQUIPMENT OPERATORS (Building Construction)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS (CONT'D)					
Fork lift not over 4'; & Steam Jenny	$10.43	.80	.75	a	.10
Mechanical heater	9.53	.80	.75	a	.10
Roller	10.32	.80	.75	a	.10
Dinky machine; Power pavement breaker	10.16	.80	.75	a	.10
Fireman (High pressure)	9.32	.80	.75	a	.10
Oiler	8.85	.80	.75	a	.10
Crane with boom, excluding jib, over 150' - $.25 extra					
Crane with boom, excluding jib, over 200' - $.50 extra					
Apprentice Oilers (Newly hired on Backhoes on Tracks)	5.80	.45	.90	a	.10
LABORERS (Heavy and Highway Construction):					
Laborers	7.75	.50	.55		.10
Acetylene burners; Asphalt raker; Chain saw operator; Concrete & power buggy operators; Concrete saw operator; fence & guard rail erectors; Form setters; Hand operated concrete vibrator operators; Hand operated vibratory compactor operators; Mason tenders; Pipelayers; Pneumatic drill operators; Pneumatic Gas & Electric drill operators; Powdermen & wagon drill operators	8.00	.50	.55		.10
Air track operators; Block paver; Curb setters	8.25	.50	.55		.10
Blasters	8.50	.50	.55		.10

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POWER EQUIPMENT OPERATORS (Heavy and Highway Construction	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
CLASS 1	$11.14	.55	1.00	a	.10
CLASS 2	11.00	.55	1.00	a	.10
CLASS 3	10.67	.55	1.00	a	.10
CLASS 4	10.48	.55	1.00	a	.10
CLASS 5	10.33	.55	1.00	a	.10
CLASS 6	10.15	.55	1.00	a	.10
CLASS 7	9.94	.55	1.00	a	.10
CLASS 8	9.08	.55	1.00	a	.10
CLASS 9	9.18	.55	1.00	a	.10
CLASS 10	9.53	.55	1.00	a	.10
CLASS 11	9.87	.55	1.00	a	.10
CLASS 12	8.73	.55	1.00	a	.10
CLASS 13	9.47	.55	1.00	a	.10
Crane with 150' boom - $.25 extra					
Crane with 200' boom - $.50 extra					
TRUCK DRIVERS (Building, Heavy and Highway Construction)					
CLASS 1	7.66	.665	.65	a	
CLASS 2	7.76	.665	.65	a	
CLASS 3	7.86	.665	.65	a	
CLASS 4	7.81	.665	.65	a	
CLASS 5	7.91	.665	.65	a	
CLASS 6	7.96	.665	.65	a	
LABORERS (Building Construction)					
Laborer	7.75	.50	.70		.10
Asphalt rakers, concrete & power buggy ops, concrete saw ops, chain saw ops, fence & guard rail erectors, form setters, pipelayers, dry stone wall builders, mason tenders, pneumatic drill ops, pneumatic gas & electric drill ops, powdermen, & wagon drill operators	8.00	.50	.70		.10
Air track ops, block pavers; and curb setters	8.25	.50	.70		.10
Blasters	8.50	.50	.70		.10

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LABORERS (Building Construction) (CONT'D):	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Open Air Caisson, Cylindrical Work and Boring Crew:					
Top man	$ 7.75	.50	.70		.10
Bottom man	8.25	.50	.70		.10

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; & F-Christmas Day

FOOTNOTE:
a. 7 paid holidays: A through F, and Good Friday

CLASSIFICATIONS: POWER EQUIPMENT OPERATORS

Class 1: Erecting and handling structural steel; Front end loader (7cy. or over)
Class 2: Piledriver; Power shovel and crane; Dragline; Gradall; Trenching machine; Lighter derrick; Paver (concrete); Derrick (stiff leg and guy); Steel pile sheeting; Koehring loader (skooper) Master mechanic
Class 3: Drill (Joy heavy weight champion or equivalent); Side boom; loader (Euclid); Mucking machine; Pumpcrete; Rock and earth boring machine; Post hole digger; Well digger; & Hammer (vibratory); Central mix; Combination hoe & loader (over ½yd)
Class 4: Asphalt spreader
Class 5: Front end loader (3yds. or over); Grader; Power stone spreader; combination hoe and loader
Class 6: Asphalt roller; Bulldozer; Carryall; Maintenance engineer; Concrete mixer (5 bags and over); Welder
Class 7: Front end loader (under 3yds.); Roller; Power chipper; Fork lift; Finishing machine; Asphalt plant; Power pavement breaker; Dinky machine
Class 8: Compressor; Pump
Class 9: Fireman (high pressure)
Class 10: Well point system
Class 11: Compressor battery
Class 12: Oiler
Class 13: Batch plant; Bulk cement plant

CLASSIFICATIONS: TRUCK DRIVERS

Class 1: Two axle trucks; Helpers
Class 2: Three axle trucks; Two axle ready mix
Class 3: Four axle trucks; Heavy duty trailer-up to 40 tons
Class 4: Three axle ready-mix
Class 5: Four axle ready-mix; Specialized earth moving equipment other than conventional type on-the-road trucks and simi-trailer (including Euclids)
Class 6: Heavy duty trailer-40 tons and over

SUPERSEDEAS DECISION

STATE: CONNECTICUT
COUNTIES: *See Below
DECISION NUMBER: CT78-3004
DATE: Date of Publication
Supersedes Decision No. : CT77-3132 dated September 30, 1977 in 42 FR 52982.

DESCRIPTION OF WORK: Building Construction (excluding single family homes and garden type apartments up to and including 4 stories), heavy (excluding tunnel construction), and highway construction.

*Hartford, Middlesex, New Haven, New London, and Tolland Counties	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS: Hartford Co.: Avon, Berlin, Bloomfield, Bristol, Burlington, Canton, E. Hartford, E. Windsor, Farmington, Glastonbury, Hartford, Manchester, Marlborough, New Britain, Newington, Plainville, Rocky Hill, Simsbury, Southington, S. Windsor, W. Hartford, Wethersfield, & Windsor; Middlesex Co.; New Haven Co.; New London Co.: Bozrah, Colchester, E. Lyme, Franklin, Groton, Lebanon, Lyme, Montville, New London, Norwich, Old Lyme, Salem, Sprague & Waterford; & Tolland Co.: Andover, Bolton, Columbia, Coventry, Ellington, Hebron, Mansfield, Tolland, Vernon, & Willington	$11.44	.65	1.16		
Hartford Co.: E. Granby, Enfield, Granby, Hartland, Suffield, & Windsor Locks; Tolland Co.: Somers, Stafford, & Union	9.95	.94	1.25		.01
New London Co.: Griswold, Ledyard, Lisbon, N. Stonington, Preston, Stonington, & Voluntown	10.28	1.00	1.18		
BOILERMAKERS	10.00	.60	10%		.01
BRICKLAYERS:; Cement masons; Finishers; Marble masons; Plasterers; Stonemasons; Terrazzo workers & Tile setters (Building Construction): Hartford Co.: Avon, Bloomfield, Burlington, Enfield, E. Granby, E. Hartford, Farmington, Glastonbury, Granby, Hartford, Hartland, Manchester, Marlborough, Rocky Hill, Simsbury					

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BRICKLAYERS (CONT'D): S. Windsor, Suffield, Thompsonville, W. Hartford, Wethersfield, Windsor, Windsor Locks; Tolland Co.: Andover, Bolton, Columbia, Coventry, Ellington, Hebron, Mansfield, Somers, Stafford, Storrs, Tolland, Union, Vernon, & Willington	$ 9.75	.90	.75		
Hartford Co.: Berlin, Kensington, New Britain, Newington, Plantsville, & Southington; New Haven Co.: Meriden	9.85	.75	.75		.03
Hartford Co.: Canton	9.60	.75	.50		.03
Middlesex Co.: & New London Co.	10.00	.75	.75		.03
New Haven Co.: Bethany, Bradford, E. Haven, Guilford, Hamden, Madison, New Haven, N. Branford, N. Haven, Orange, W. Haven, Woodbridge, part of Milford, & parts of Chesire	9.95	.50	.50		
New Haven Co.: Ansonia & Derby	9.50	.75			.03
Hartford Co.: Bristol, Marion, & Plainville; New Haven Co.: Beacon Falls, Middlebury, Mixville, Naugatuck. Prospect, Waterbury, & Wolcott	9.70	.75	.75		.03
New Haven Co.: Devon to the Orange Town line & the Indian River in Milford	9.85	.75	.50		
BRICKLAYERS (Heavy & Highway Construction): New Haven Co.: Milford	9.00	65	.50	b	
Hartford Co.; Middlesex Co.; New Haven Co., except Milford; New London Co.; & Tolland Co.	8.95	.65	.50	b	
CARPENTERS; Millwrights; Piledrivermen; & Soft floor layers (Building Construction) New Haven Co.: Milford	10.00	.80	.55	c	e
Hartford Co.: Avon, E. Granby, E. Hartland, E. Windsor, Enfield, Farmington, Glastonbury, Granby,					

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS (CONT'D): Hartford, Hartland, Manchester, Rocky Hill, Simsbury, S. Windsor, Suffield, Thompsonville, Unionville, W. Hartford, Wethersfield, Windsor, Windsor Locks; Tolland Co.: Bolton, Ellington, Rockville, Somers, Stafford, Tolland, & Vernon	$ 9.71	.70	.45		.05
Hartford Co.: Berlin, Bristol, Canton, E. Berlin, Kensington, Marion, Milldale, New Britain, Newington, Plainville, & Southington; Middlesex Co.; New Haven Co.: Meriden, & Wallingford	9.80	.70	.40		.05
New Haven Co.: Bethany, Branford, E. Haven, Guilford, Hamden, Madison, New Haven, N. Branford, N. Haven, S. Cheshire, W. Haven, & Woodbridge	9.80	.70	.40		.05
New Haven Co.: Ansonia, Derby, Orange, Oxford, & Seymour	9.35	.35	.30	d	
New Haven Co.: Beacon Falls, Bethany (to the firehouse), Cheshire, Middlebury, Naugatuck, Prospect, Southbury, Waterbury, & Wilcott	9.80	.70	.40		.05
New London Co.: Bozrah, Colchester, E. Lyme, Franklin, Griswold, Groton, Lebanon, Ledyard, Lisbon, Lyme, Montville, New London, N. Stonington, Norwich, Old Lyme, Preston, Salem, Sprague, Stonington (N. of Rte #184). Voluntown & Waterford; Tolland Co.: Andover, Columbia, Coventry, Hebron, Mansfield, Union, & Willington	10.00	.80	.55		.03

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS (Heavy & Highway Construction): New Haven Co.: Ansonia, Derby, Milford, Orange (W. of Orange Center Road & S. of Rte #1 & W. of the Oyster River), Oxford, & Seymour	$ 9.80	.80	.55	f	e
Hartford Co.; Middlesex Co.; & New Haven Co.: Rem. of Co.; Tolland Co.: Bolton, Ellington, Somers, Stafford, Toland, & Vernon	9.85	.75	.85	f	.05
New London Co.; Tolland Co.: Andover, Columbia, Coventry, Hebron, Mansfield, Union, & Willington	9.85	.75	.85	f	.03
ELECTRICIANS: New Haven Co.: Milford	10.40	1.10	3%+.30		½%
Hartford Co.: Berlin, Bristol, New Britain, Newington, Plainville, & Southington	10.17	1.00	3%+.30		½%
Hartford Co.: Suffield, Thomasville, & Enfield	9.85	.70	3%+.30	.43	.03
Hartford Co.: Hartland; New Haven Co.: Beacon Falls, Middlebury, Naugatuck, Oxford, Prospect, Seymour, Southbury, Waterbury, & Wolcott	10.30	.80	3%+.60	h	1/8%
Hartford Co.: Rem. of Co.; Middlesex Co.: Cromwell, Middlefield, Middletown & Portland; New London Co.: Bozrah Colchester, Franklin, Lisbon, Montville, N. Stonington, Norwich, Preston, Salem, Sprague, Stonington, & Voluntown; & Tolland Co.	11.30	1.50	3%+.50		½%

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ELECTRICIANS (CONT'D):	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Middlesex Co.: Centerbrook, Chester, Clinton, Cobalt, Deep River, Durham, E. Hampton, Essex, Haddam, Higganum, Ivoryton, Middle Haddam, Moodus, Old Saybrook, Rockfall & Westbrook; New Haven Co.: Ansonia, Branford, Cheshire, Derby, Guilford, Madison, Meriden, New Haven, N. Branford, N. Haven, Northford, Orange, S. Britain & Wallingford; New London Co.: E. Lyme, Groton, Lyme, New London, Old Lyme, & Waterford	$10.36	1.00	3%		½ of 1%
ELEVATOR CONSTRUCTORS	10.35	.545	.35	4%+i+j	.02
ELEVATOR CONSTRUCTORS' HELPERS	7.245	.545	.35	4%+i+j	.02
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	5.175				
GLAZIERS:					
New Haven Co., except Wallingford; Hartford Co.; Middlesex Co.; New Haven Co.; Wallingford; New London Co.; & Tolland Co.	9.83	.95	.47	k	.01
	11.41	.84	.55	l	
IRONWORKERS:					
Ornamental; Reinforcing; Structural and Precast concrete erection	11.95	.75	1.20	m	.08
LATHERS:					
Hartford Co.: Bristol, Southington; New Haven Co.: Beacon Falls, Bethany, Cheshire, Meriden, Middlebury, Naugatuck, Oxford, Prospect, Southbury, Waterbury, & Wolcott	9.65	.35	.30		.01
Hartford Co.: Avon, Berlin, Bloomfield, Burlington, Canton, E. Granby, E. Hartford, Farmington, Glastonbury, Granby, Hartford, Manchester, Marlborough, New Britain, Newington,					

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LATHERS (CONT'D):	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Plainville, Rocky Hill, Simsbury, S. Windsor, W. Hartford, Windsor & Windsor Locks; Middlesex Co.: Cromwell, E. Haddam, E. Hampton, Middlefield, Middletown & Portland; New London Co.: Bozrah, Colchester, E. Lyme, Franklin, Groton, Lebanon, Lisbon, Lyme, Salem, Sprague, & Waterford; Tolland Co.: Andover, Bolton, Columbia, Coventry, Hebron, Mansfield, & Vernon	$ 9.90	.50	.30		.01
Hartford Co.: Broad Brook, Enfield, Hazardville, Melrose, Suffield, Thompsonville, & Warehouse Point; Tolland Co.: Crystal Lake, N. Somers, Somers, Stafford, Stafford Springs, Staffordville & Union	8.45	.45	.25		.01
Middlesex Co.: Chester, Clinton, Deep River, Durham, Essex, Haddam, Killingworth, Old Saybrook & Westbrook; New Haven Co.: Ansonia, Branford, Derby, E. Haven, Guilford, Hamden, Madison, Milford, New Haven, N. Branford, N. Haven, Orange, Seymour, Wallingford, W. Haven, & Woodbridge	9.80	.75	.45		.01
New London Co.: Groton	9.25	.45	.55		.01
LEADBURNERS	9.25	*.35		n	.01
LINE CONSTRUCTION:					
Linemen	10.92	.70	3%+.50	o	
Equipment operators	10.19	.70	3%+.50	o	
Driver groundmen	7.87	.70	3%+.50	o	
MARBLE SETTERS' HELPERS; Terrazzo workers' helpers; & Tile setters' helpers	8.65	.50	.65		

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PAINTERS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Bridge and Highway					
Structural steel	$12.45				
Sandblasting or power tools	13.45				
Spray	15.95				
New Haven Co.: Milford (up to Gulf Street)					
Brush	8.65	.50	.65	p	
Taping	9.04	.50	.65	p	
Spray	10.65	.50	.65	p	
Hartford Co.: Avon, Bloomfield, Broad Brook, Canton, E. Granby, E. Hartford, E. Windsor, Enfield, Farmington, Glastonbury, Granby, Hartford, Manchester, Marlborough, Rocky Hill, Poquonock, Simsbury, S. Windsor, Suffield, S. Manchester, W. Hartford, W Simsbury, Wethersfield, Windsor, & Windsor Locks; Tolland Co.: Andover, Ashford, Bolton, Columbia, Coventry, Ellington, Hebron, Mansfield, Rockville, Stafford, Somers, Tolland, Union, Vernon, & Willington					
Brush; Tapers	10.00	.80	.60		
Paperhangers	10.50	.80	.60		
Riding steel; Steamcleaning; Sandblasting; Tank; Towers, & Hazardous work	10.58	.80	.60		
Spray	13.00	.80	.60		
Hartford Co.: Berlin, Bristol, Burlington, E. Berlin, Forestville, Hartland, Kensington, Milldale, New Britain, Newington, Plainville, Plantsville, Southington, & Unionville; New Haven Co.: Cheshire, Guilford Madison, Meriden, & Wallingford;					

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PAINTERS (CONT'D):	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Middlesex Co.: Chester, Clinton, Cromwell, Deep River, Durham, E. Haddam, E. Hampton, Essex, Haddam, Higganum, Ivoryton, Killingworth, Middlefield, Middletown, Moodus, Norfolk, Portland, Saybrook, & Westbrook					
Brush; Roller; Taping	$ 9.60	.80	.45		
Spray	12.00	.80	.45		
Epoxy	9.85	.80	.45		
Paperhanging	10.10	.80	.45		
Work over 60' & Boatswain chair; Open Steel	14.40	.80	.45		
Swing stage 40 - 60'	10.60	.80	.45		
New Haven Co.: Ansonia, Beacon. Falls. Derby, Oxford, & Seymour					
Brush	10.00	.50	.80	q	.01
Hand roller; Paperhangers	10.50	.50	.80	q	.01
Structural steel, epoxy polyester	11.00	.50	.80	q	.01
Spray	13.50	.50	.80	q	.01
New Haven Co.: Bethany, Branford, E. Haven Hamden, Milford, (s. on Gulf Street & n. on North Street), New Haven, N. Branford, N. Haven, Orange, W. Haven, Woodbridge, & Woodmont					
Brush; Sandblasting	9.05	.50	.60		.02
Tapers	9.40	.50	.60		.02
Paperhangers	9.55	.50	.60		.02
Spray	11.70	.50	.60		.02
Structural steel	9.30	.50	.60		.02
New Haven Co.: Middlebury, Naugatuck, Prospect, Roxbury, Southbury, Thomaston, Washington, Waterbury, Watertown, Wolcott, & Woodbury					
Brush	8.80	.50	.60		
Paperhanger & Tapers	9.05	.50	.60		
Spray	13.20	.50	.60		

DECISION NO. CT78-3004

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS (CONT'D):					
New London Co.: Norwich					
Brush	$ 9.90	.50	.70		.01
Paperhangers	10.20	.50	.70		.01
Sign	10.28	.50	.70		.01
Taping	10.30	.50	.70		.01
Roller	10.40	.50	.70		.01
Structural steel	10.70	.50	.70		.01
Spraying oil paint	13.05	.50	.70		.01
Spraying epoxy	15.58	.50	.70		.01
PLUMBERS:					
Hartford Co.: Avon, Bloomfield, Burlington Canton, E. Granby, E. Hartford, E.Windsor, Enfield, Farmington, Glastonbury, Granby, Hartford, Manchester, Marlborough Newington, Rocky Hill, Simsbury, S. Windsor, Suffield, W. Hartford, Wethersfield, Windsor, Windsor Locks Middlesex Co.: Chester, Cromwell, Deep River, E. Haddam, E. Hampton, Haddam, Maromas (Atomic River Project) Middlefield, Middletown, & Portland; Tolland Co.: Andover, Bolton, Columbia, Coventry, Ellington, Hebron, Mansfield, Somers, Stafford, Storrs, Tolland, Union, Vernon, & Willington	10.31	1.10	1.39		.10
PLUMBERS; Steamfitters:					
New Haven Co.: Milford	10.49	.75	.70	.42	.01
Hartford Co.: Southington; Middlesex Co.: Durham; New Haven Co.: Cheshire, Meriden, & Wallingford	10.35	.75	.70	r	.03
Hartford Co.: Berlin, Bristol. E. Berlin, Kensington, New Britain, & Plainville	9.40+10%	.75	70	s	.03

DECISION NO. CT78-3004

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLUMBERS; Steamfitters (CONT'D): Middlesex Co.: Clinton, Killingworth, & Westbrook; New Haven Co.: Branford, Derby, E. Haven Guilford, Hamden, Madison, New Haven, N. Branford, N. Haven, Orange, W. Haven, & Woodbridge	$10.55	.75	.70	t	.02
Middlesex Co.: Essex, Ivoryton, Old Saybrook, & Saybrook; New London Co.: Bozrah, Colchester E.Lyme, Franklin, Griswold, Groton, Lebanon, Ledyard, Lisbon Lyme, Montville, New London, N. Stonington, Norwich, Old Lyme, Preston, Salem, Sprague, Stonington, Voluntown, & Waterford	11.92	.60	.70	u	.05
New Haven Co.: Ansonia, Beacon, Falls, Bethany, Naugatuck, Oxford, Prospect, & Seymour New Haven Co.: Middlebury, Southbury, S. Britain, Waterbury & Wolcott					
Hartford Co.: Hartland	10.45	.88	.70	v	.05
ROOFERS:					
New Haven Co.: Ansonia, Beacon Falls, Bethany, Branford, Derby E. Haven, Guilford, Hamden, Madison, Milford, Middlebury, Naugatuck, New Haven, N, Branford, N. Haven, Orange, Oxford, Seymour, Union City, W. Haven, & Woodbridge	10.15	1.05	.45		
Hartford Co.; Middlesex Co.; New Haven Co.: Cheshire, Meriden, Prospect, Wallingford, & Wolcott; New London Co.; & Tolland Co.					
Composition	8.75	.525	.70	.55	
Slate, Tile	9.25	.525	.70	.55	
SHEET METAL WORKERS	10.55	.70	.86		.05
SPRINKLER FITTERS	11.38	.65	.95		.08

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
STEAMFITTERS: Hartford Co.: Avon, Bloomfield, Burlington, Canton, E. Granby, E. Hartford, E. Windsor, Enfield, Farmington, Glastonbury, Granby Hartford, Manchester, Marlborough, Newington, Rocky Hill, Simsbury S. Windsor, Suffield, W. Hartford, Wethersfield, Windsor, & Windsor Locks; Middlesex Co.: Chester, Cromwell, Deep River, E. Haddam E. Hampton, Haddam, Maromas (Atomic River Project), Middlefield, Middletown, & Portland; Tolland Co.: Andover, Bolton, Columbia, Coventry, Ellington, Hebron, Mansfield, Somers, Stafford, Storrs, Tolland, Union, Vernon, & Willington	$10.27	1.16	.66		.13

DECISION NO. CT78-3004

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. 7 paid holidays: A through F, and Good Friday.
b. 1 paid holiday: Good Friday. Employee must work 3 days during the work week in which the holiday falls, if scheduled, and if scheduled, the working day before and the working day after the holiday.
c. 4 paid holidays: B, C, D, and Good Friday. Employee must be employed 14 consecutive days immediately prior to the holiday.
d. 3 paid holidays: C, D, and E
e. $.50 per worker per year
f. 3 paid holidays: B, C, and D
h. The last 4 regular working hours prior to Christmas Day shall be paid half day.
i. 6 paid holidays: A through F
j. Employer contributes 4% of basic hourly rate for 5 years or more of service or 2% basic hourly rate for 6 months to 5 years of service as vacation pay credit.
k. 9 paid holidays: A through F, Washington's Birthday, Good Friday, and Columbus Day
l. 9 paid holidays: A through F, Washington's Birthday, good Friday and Columbus Day
m. The last 4 hours on Christmas Eve is a paid half day if employee has worked 5 consecutive days prior to Christmas Eve
n. 9 paid holidays: A through F, Washington's Birthday, Good Friday and Christmas Eve provided the employee has worked 45 full days for the employer during the 120 days prior to the holiday and is available for work the day preceding and following the holiday.
o. 9 paid holidays: A through F Washington's Birthday, Good Friday and a floating holiday pre year provided the employee has been employed for a period of 5 working days prior to the holidays and works the scheduled work days immediately preceding and following the holidays
p. 2 paid holidays: C and D providing the employee works the day before and the day after the holiday
q. 4 paid holidays: B, C, D, and E providing the employee works the day before and the day after the holiday
r. 1 paid holiday: D
s. Paid holidays: D, and the Friday after Thanksgiving is a paid half day, and December 24, provided it falls on a working day, is a paid half day
t. 3½ paid holidays: C, D, E, and the half day Friday after Thanksgiving
u. 1 paid holiday: D
v. 2 paid holidays: B, D & half day paid holiday the Friday after Thanksgiving and the last working day before Christmas, & Good Friday paid half day

DECISION NO. CT78-3004
POWER EQUIPMENT OPERATORS
(Building construction)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
Derrick; Hoisting engineer 2 drums and over; Hoisting structural steel; Pile driver; & Setting stone	$11.32	.80	.75	a	.10
Dragline; Fork lift - over 4' lift; Front end loader - 7 cy. or over; Gradall; Hoisting engineer (all types of equipment where a drum and cable are used to hoist, pull, or drag material regardless of motive power or operation); Koehring scooper loader and/or hoe; Master mechanic; Shovel; & Tower crane	11.21	.80	.75	a	.10
Maintenance engineer	11.11	180	.75	a	.10
Central mix operator; Coleman loader and screening plant or similar equipment; combination hoe and loader over ¼ yd.; Conveyors - regardless of motive power; Front end loader - 3 cy. up to 7 cy.; High pressure portable boiler; Joy drill - limited to joy heavy weight champion or equivalent; Mucking machine; Post hoe digger; Pumpcrete machine; Rock boring machine; Vibratory hammer; Welder; & Well digger	10.85	.80	.75	a	.10
Compressor battery operator	10.06	*180	.75	a	.10
Asphalt spreader	10.64	.80	.75	a	.10
Bulldozer; Carry-all operators; Grader; & Scraper pan	10.58	.80	.75	a	.10
Combination hoe and loader machine; Concrete mixer - 5 bags or over; Front end loader under 3 cy.; Powerstone spreader	10.53	.80	.75	a	.10
Air and steam valve	9.80	.80	.75	a	.10
Compressor; Generator; Pump and Well point; Welding machine	9.69	.80	.75	a	.10

DECISION NO. CT78-3004
POWER EQUIPMENT OPERATORS
(Building Construction)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS (CONT'D):					
Fork lift not over 4'; & Steam Jenny	$10.43	.80	.75	a	.10
Mechanical heater	9.53	.80	.75	a	.10
Roller	10.32	.80	.75	a	.10
Dinky machine; Power pavement breaker	10.16	.80	.75	a	.10
Fireman (High pressure)	9.32	.80	.75	a	.10
Oiler	8.85	.80	.75	a	.10
Crane with boom, excluding jib, over 150' - $.25 extra					
Crane with boom, excluding jib, over 200' - $.50 extra					
LABORERS (Heavy and Highway Construction):					
Laborers	7.75	.50	.55		.10
Acetylene burners; Asphalt raker; Chain saw operator; Concrete & power buggy operators; Concrete saw operator; fence & guard rail erectors; Form setters; Hand operated concrete vibrator operators; Hand operated vibratory compactor operators; Mason tenders; Pipelayers; Pneumatic drill operators; Pneumatic Gas & Electric drill operators; Powdermen & wagon drill operators	8.00	.50	.55		.10
Air track operator; Block pavers; Curb setters	8.25	.50	.55		.10
Blasters	8.50	.50	.55		.10

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POWER EQUIPMENT OPERATORS
(Heavy and Highway construction)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
Class 1	$11.35	.80	.75	a	.10
Class 2	11.20	.80	.75	a	.10
Class 3	10.87	.80	.75	a	.10
Class 4	10.67	.80	.75	a	.10
Class 5	10.52	.80	.75	a	.10
Class 6	10.33	.80	.75	a	.10
Class 7	10.12	.80	.75	a	.10
Class 8	9.24	.80	.75	a	.10
Class 9	9.34	.80	.75	a	.10
Class 10	9.70	.80	.75	a	.10
Class 11	10.05	.80	.75	a	.10
Class 12	8.88	.80	.75	a	.10
Class 13	9.64	.80	.75	a	.10
Crane with 150' boom - $.25 extra					
Crane with 200' boom - $.50 extra					
TRUCK DRIVERS (Building, Heavy & Highway Construction)					
TRUCK DRIVERS:					
Class 1	7.66	.665	.65	a	
Class 2	7.76	.665	.65	a	
Class 3	7.86	.665	.65	a	
Class 4	7.81	.665	.65	a	
Class 5	7.91	.665	.65	a	
Class 6	7.96	.665	.65	a	
LABORERS (Building Construction)					
Laborers	7.75	.50	.70		.10
Asphalt rakers, concrete & power buggy ops, concrete saw ops, chain saw ops, fence & guard rail erectors, form setters, pipelayers, dry stone wall builders, mason tenders, pneumatice drill ops, pneumatic gas & electric drill ops, powdermen, & wagon drill ops	8.00	.50	.70		.10
Air track ops, block pavers, and curb setters	8.25	.50	.70		.10
Blasters	8.50	.50	.70		.10
Open Air Caisson, Cylindrical Work and Boring Crew:					
Top man	7.75	.50	.70		.10
Bottom man	8.25	.50	.70		.10

DECISION NO. CT78-3004

CLASSIFICATIONS:

POWER EQUIPMENT OPERATORS:

Class 1: Erecting and handling structural steel; Front end loader (7 cy. or over)
Class 2: Piledriver; Power shovel and crane; Dragline; Gradall; Trenching machine; Lighter derrick; Paver (concrete); Derrick (stiff leg and guy); Steel pile sheeting; Koehring loader (skooper); Master mechanic
Class 3: Drill (Joy heavy weight champion or equivalent); Side boom; loader (Euclid); Mucking machine; Pumpcrete; Rock and earth boring machine; Post hole digger; Well digger; & Hammer (vibratory); Central mix; Combination hoe & loader (over ¾ yd)
Class 4: Asphalt spreader
Class 5: Front end loader (3 yds. or over); Grader; Power stone spreader; Combination hoe and loader
Class 6: Asphalt roller; Bulldozer; Carryall; Maintenance engineer; Concrete mixer (5 bags and over); Welder
Class 7: Front end loader (under 3 yds.); Roller; Power chipper; Fork lift; Finishing machine; Asphalt plant; Power pavement breaker; Dinky machine
Class 8: Compressor; Pump
Class 9: Fireman (high pressure)
Class 10: Well point system
Class 11: Compressor battery
Class 12: Oiler
Class 13: Batch plant; Bulk cement plant

TRUCK DRIVERS:

Class 1: Two axle trucks; Helpers
Class 2: Three axle trucks; Two axle ready-mix
Class 3: Four axle trucks; Heavy duty trailer-up to 40 tons
Class 4: Three axle ready-mix
Class 5: Four axle ready-mix; Specialized earth moving equipment other than conventional type on-the-road trucks and semi-trailers (including Euclids)
Class 6: Heavy duty trailer-40 tons and over

SUPERSEDEAS DECISION

STATES: Illinois, Indiana, Kentucky, Missouri, Ohio, & West Virginia
DECISION NUMBER: IL78-2008 DATE: Date of Publication
SUPERSEDES DECISION NO.: IL77-5056 dated June 3, 1977 in 42 FR 28759
DESCRIPTIONOF WORK: Dredging on the Illinois River between Miles 0.0 and 80.0; the Ohio River between Miles 950.0 and 122.0; the Upper Mississippi River between Miles 0.0 and 195.0; and the Kaskaskia River from the mouth to Fayetteville, Illinois.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
AREA I					
Within the geographical jurisdiction of the St. Louis District, Corps of Engineers.					
Levermen, Engineer, Mechanic, and Boatman	$9.95	.87	1.51		
Oiler	8.46	.87	1.51		
AREA II					
Within the geographical jurisdiction of the Louisville District, Corps of Engineers					
Levermen, Engineer, Mechanic, and Boatman	9.81	.87	1.51		
Oiler	7.35	.87	1.51		
AREA III					
Within the geographical jurisdiction of the Huntington District, Corps of Engineers					
Levermen, Engineer, Mechanic, and Boatman	9.47	.87	1.51		
Oiler	6.84	.87	1.51		

SUPERSEDEAS DECISION

STATE: Louisiana PARISHES: Bossier, Caddo & Calcasieu
DECISION NO.: LA78-4013 DATE: Date of Publication
Supersedes Decision No. LA77-4220, dated September 23, 1977, in 42 FR 48658.
DESCRIPTION OF WORK: Residential construction consisting of single family homes and garden type apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
Bossier & Caddo Parishes	$10.03	.40	.76		.025
Calcasieu Parish	10.595	.525	.90		.04
BOILERMAKERS	10.00	.50	1.00		.02
BRICKLAYERS & STONEMASONS:					
Bossier & Caddo Parishes	9.55	.40	.45		
Calcasieu Parish	10.85	.53	.30		.02
CARPENTERS:					
Bossier & Caddo Parishes:					
Carpenters	9.30	.40	.35		.04
Millwrights	10.05	.40	.35		.04
Piledrivermen	9.55	.40	.35		.04
Calcasieu Parish					
Carpenters & piledrivermen	9.745	.40	.33		.05
Millwrights	11.245				.05
CEMENT MASONS:					
Bossier & Caddo Parishes	8.75	.35			
Calcasieu Parish	9.45				
ELECTRICIANS:					
Bossier & Caddo Parishes:					
Electricians	11.00	1.00	3%		1%
Cable splicers	11.50	1.00	3%		1%
Calcasieu Parish:					
New & old single or multiple family residences and apartment complexes, not to exceed 12 units, 2 story walk-up.	6.25	.35	3%+.20		3/10%
Other work:					
Electricians	12.30	.35	3%+.20		1/10%
Cable splicers	12.55	.35	3%+.20		1/10%
ELEVATOR CONSTRUCTORS:					
Bossier & Caddo Parishes:					
Mechanics	9.595	.745	.35	4%+a+b	.02
Helpers	70%JR	.745	.35	4%+a+b	.02
Helpers (Probationary)	50%JR				
Calcasieu Parish:					
Mechanixs	9.76	.545	.35	4%+a+b	.02
Helpers	70%JR	.545	.35	4%+a+b	.02
Helpers (Probationary)	50%JR				
GLAZIERS:					
Bossier & Caddo Parishes	7.88		.30		.04
Calcasieu Parish	9.15				.02
IRONWORKERS:					
Bossier & Caddo Parishes	10.75	.45	.50		.04
Calcasieu Parish	10.30	.35	.60		.025

DECISION NO. LA78-4013

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
Bossier & Caddo Parishes:					
GROUP 1 - Building laborers	6.25	.15	.10		.05
GROUP 2 - Mason tenders, plasterer tenders; asphalt rakers, asphalt smoothers	6.35	.15	.10		.05
GROUP 3 - Mortar mixers	6.40	.15	.10		.05
GROUP 4 - Air jack operators, vibrator operators; Sewer pipe layers, sewer pipe wipers	6.45	.15	.10		.05
Calcasieu Parish:					
GROUP 1 - Building & general laborer; tenders (carpenter, plaster, cement finisher, mason); tank & vessel cleaners	7.55	.15	.10		.05
GROUP 2 - Air tool operator (except jackhammer); interior of closed tanks & vessles power equipment	7.65	.15	.10		.05
GROUP 3 - Mortar mixers & jackhammer operators	7.70	.15	.10		.05
GROUP 4 - Blasterers	8.51	.15	.10		.05
GROUP 5 - Blaster helpers; concrete cutters behind paving machines & puddlers; form setters & lines asphalt worker	8.07	.15	.10		.05
GROUP 6 - Wipe joints, laying pipe & tile from pumpcrete	7.81	.15	.10		.05
GROUP 7 - Interior of closed tanks & vessels manually	7.60	.15	.10		.05
LATHERS:					
Bossier & Caddo Parishes	10.75				
Calcasieu Parish	10.585	.30			.01
MARBLE SETTERS:					
Bossier & Caddo Parishes	8.55	.30			
Calcasieu Parish	10.85	.53	.30		.02
PAINTERS:					
Bossier & Caddo Parishes:					
GROUP 1 - Painters, tape & float & paperhangers; stage, window jacks & structural steel	8.85	.40	.30		.05
GROUP 2 - Stage, window jacks & structural steel over 30 ft.	9.10	.40	.30		.05

DECISION NO. LA78-4013

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 3 - Stage, window jacks & structural steel over 75ft.	$ 9.35	.40	.30		.05
GROUP 4 - Sandblasting, spray	9.45	.40	.30		.05
Calcasieu Parish:					
GROUP 1 - Brush, wood or wall; rollers	10.36				
GROUP 2 - Brush on steel, buffer on wood or wall	10.485				
GROUP 3 - Paperhanging, taping & floating	10.56				
GROUP 4 - Spray, wood & wall	10.705				
GROUP 5 - Steeplejack, sandBlasting, spider operator, rubberizing & proflexing, steam jennies, spray on steel	10.845				
PLASTERERS:					
Bossier & Caddo Parish	9.75			1.00	
Calcasieu Parish	10.07				
PLUMBERS & PIPEFITTERS:					
Bossier & Caddo Parishes	9.94	.40	.50	.95	.09
Calcasieu Parish	11.15	.67	.72		.08
ROOFERS:					
Bossier & Caddo Parishes:					
Roofers	9.10		.20		.02
Kettlemen	6.31		.20		.02
Calcasieu Parish:					
Roofers	9.73		.10		
SHEET METAL WORKERS:					
Bossier & Caddo Parishes	6.34	3%+.40			.12
Calcasieu Parish	10.97	.40	.27		.10
SOFT FLOOR LAYERS:					
Bossier & Caddo Parishes	9.30	.40	.35		.04
Calcasieu Parish	9.745	.40	.33		.05
SPRINKLER FITTERS	10.35	.65	.95		.08
TERRAZZO WORKERS:					
Bossier & Caddo Parishes	8.55	.30			
Calcasieu Parish	10.85	.53	.30		.02
TILE SETTERS:					
Bossier & Caddo Parishes	9.55	.30			
Calcasieu Parish	7.65	.48	.30		.02
TRUCK DRIVERS:					
Bossier & Caddo Parishes:					
GROUP 1 - Pick-up drivers, spotters & dumpers of dirt, gravel, asphalt & rock	5.47				
GROUP 2 - Stake bodies; flat beds (all sizes)	5.55				

DECISION NO. LA78-4013

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS (CONT'D):					
GROUP 3 - Single axle dumps & water trucks; transit mix up to & including 3 yds.	$ 5.80				
GROUP 4 - Tandem axle, dump, batch & water trucks over 3 tons, pick-ups with trailer	5.95				
GROUP 5 - Mississippi wagons, floats, tractor trailers; rubber tired tractors & wobble wheels	6.10				
GROUP 6 - Euclids, lowboys, Dempsey dumpsters, Koehring dumps, five axle trucks, transit mix over 3 yds.; fuel truck	6.30				
Calcasieu Parish:					
GROUP 1 - Teamsters, pick-up drivers	4.91				
GROUP 2 - Stake bodies (all sizes)	5.34				
GROUP 3 - Trucks trailer & dumps over 8 yds.; Mixers on trucks over 3 yds.; Mississippi wagons & Koehring dumpsters & similar dirt moving equipment (up to & including 8 yds.)	5.55				
GROUP 4 - Mixers on trucks up to & including 3 yds.	5.35				
GROUP 5 - Winch trucks	5.45				
GROUP 6 - Dump trucks	5.37				
GROUP 7 - Mississippi wagons & Koehring dumpsters & similar dirt moving equipment over 8 yds.	5.76				

FOOTNOTES:
a - 1st 6 mos. - none; 6 mos. to 5 yrs. - 2%; over 5 yrs. - 4% of basic hourly rate
b - Paid Holidays - A thru G

PAID HOLIDAYS:
A-New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-the Friday after Thanksgiving Day; G-Christmas Day

DECISION NO. LA78-4013

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
Calcasieu Parish:					
GROUP 1	$7.43	.65	.48		.05
GROUP 2	7.11	.65	.48		.05
GROUP 3	6.90	.65	.48		.05
GROUP 4	7.71	.65	.48		.05
GROUP 5	10.095	.65	.48		.05
GROUP 6	8.12	.65	.48		.05
GROUP 7	8.80	.65	.48		.05

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP 1 - Scale Operator; Oiler-Driver on Motor Crane; Batch Plant Operator
GROUP 2 - Pumps under 3 inch suction; Mechanic Helper
GROUP 3 - Oiler
GROUP 4 - Fireman
GROUP 5 - Combination Oiler-Compressor; Combination Oiler-Fireman; Asphalt Spreaders; Backhoe (all types); Bulldozers; Cableways; Cherry Pickers (all types); Concrete Mixers (over 1 sack); Cranes; Deck Winch (2 drums or over); Derricks; Ditching or trenching machines (riding type); Draglines; Dredges; Fork Lifts (other than farm type) outside warehouses; Foundation Drill; Front End Loaders (except farm type); Grease Serviceman; Hoist-1 drum (4 stories or more on buildings); Hoist-1 drum (over 40 Ft. on structures other than building); Hoist (2 drum or over); Locomotives (all types); Mechanic; Mixer Plant Operator-Central Mix; Motor Patrols; Piledrivers; Pull Cat; Pump Crete-6" and over discharge; Push Cat; Road Pavers; Rollers (Plant Mix Asphalt); Scrapers; Shovels; Sidebooms; Unit Operator; Welder, Journeyman: Well Point System; Whirleys; Winch Cats (Cat D-4 and over); Winch Truck with A-Frame (5 ton and over); Work Boats-requiring licensed operator
GROUP 6 - Bush Hog; Compressor; Concrete pump-under 6" discharge; Concrete Saw; Deck Winch (1 drum); Distributors; Ditching or trenching machines (non-riding type); Dowel Bar Machine; Farm-type tractors (when used to pull discs, grass cutters, etc.); Hoist-1 drum (under 4 stories on buildings); Hoist-1 drum (40 feet or under on structures other than buildings); Kolum Buff Machines; Mixers (1 sack and under); Motorized street sweepers self-propelled; Pump (3" and over); Test Pump-Internal combustion engine powered; Water Blast Pumps
GROUP 7 - Asphalt Plant Operator; Boom Trucks; Bull Floats; Concrete Spreader; Farm Type Front End Loaders; Finishing Machines (Roadway, riding type); Roller (other than plant mix asphalt); Straddle Buggies; Winch Truck with A-Frame (under 5 tons); Work Boat-not requiring licensed operator

SUPERSEDEAS DECISION

STATE: Mississippi COUNTY: *SEE BELOW
DECISION NUMBER: MS78-1002 DATE: Date of Publication
Supersedes Decision No.: MS76-1137, dated December 17, 1976 in 41-FR-55271
DESCRIPTION OF WORK: Highway Construction (Does not include Building Structure in Rest Area Projects; Bridges over Navigable Water; Tunnels and Railroad Construction

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Carpenters	$4.97				
Cement Mason/Finisher	3.75				
Ironworkers, reinforcing	5.45				
Laborers:					
Unskilled	2.81				
Mason Tender	3.56				
Asphalt Raker	3.25				
Grade Checker	4.47				
Truck Driver	3.09				
POWER EQUIPMENT OPERATORS:					
Aggregate Spreader operator	3.75				
Asphalt Distributor-Spreader Operator	3.66				
Backhoe/Shovel Operator	4.64				
Bulldozer Operator	4.92				
Crane, Dragline Operator	5.70				
Loader Operator (all types)	4.26				
Mechanic	5.11				
Motor Patrol Operator	5.16				
Oiler-greaser	3.97				
Roller Operator (self-propelled)	3.23				
Scraper Operator	5.70				
Striping Machine Operator	4.25				
Tractor Operator (wheel type)	2.75				

Area I Counties:
Alcorn, Benton, Calhoun, Chickasaw, Choctaw, Clay, Itawamba, Lafayette, Lee, Lowndes, Marshall, Monroe, Oktibbeha, Pontotoc, Prentiss, Tippah, Tishomingo, Union and Webster.

SUPERSEDEAS DECISION

STATE: Mississippi COUNTY: *SEE BELOW
DECISION NUMBER: MS78-1009 DATE: Date of Publication
Supersedes Decision No.: MS76-1137, dated December 17, 1976 in 41-FR-55271
DESCRIPTION OF WORK: Highway Construction, (does not include Building Structure in Rest Area Projects; Bridges over Navigable Water; Tunnels and Railroad Construction

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Carpenters	$4.50				
Cement Masons/Finisher	5.00				
Ironworkers, Reinforcing	3.75				
Laborers:					
Unskilled	2.74				
Asphalt Raker	2.85				
Grade Checker	3.75				
Truck Driver	2.65				
POWER EQUIPMENT OPERATORS:					
Asphalt Distributor-Spreader Operator	3.36				
Backhoe/Shovel Operator	5.00				
Bulldozer Operator	4.99				
Crane, Dragline Operator	6.00				
Loader Operator (all types)	3.73				
Mechanic	4.85				
Mixer Operator (all types)	3.00				
Motor Patrol Operator	5.00				
Oiler-greaser	3.67				
Roller Operator (self-propelled)	2.75				
Scraper Operator	4.57				
Striping Machine Operator	4.02				

Area II Counties:
Bolivar, Carroll, Coahoma, DeSoto, Grenada, Leflore, Montgomery, Panola, Quitman, Sunflower, Tallahatchie, Tate, Tunica, Washington, & Yalobusha.

SUPERSEDEAS DECISION

STATE: Mississippi COUNTY: * SEE BELOW
DECISION NUMBER: MS78-1010 DATE: Date of Publication
Supersedes Decision No.: MS76-1137, dated December 17, 1976 in 41-FR-55271
DESCRIPTION OF WORK: Highway Construction (does not include Building Structure in Rest Area Projects; Bridges over Navigable Water; Tunnels and Railroad Construction

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Carpenters	$4.50				
Cement Masons/Finisher	4.00				
Ironworkers, reinforcing	3.75				
Laborers:					
Unskilled	2.83				
Grade Checker	3.00				
Asphalt Raker	3.25				
Mason Tender	4.00				
Truck Driver	3.00				
POWER EQUIPMENT OPERATORS:					
Aggregate spreader operator	3.50				
Asphalt distributor-spreader operator	3.50				
Backhoe/Shovel operator	4.91				
Bulldozer operator	5.25				
Concrete finishing machine operator	4.47				
Crane, dragline operator	5.50				
Earth Auger	5.90				
Loader operator (all types)	4.00				
Mechanic	4.95				
Mixer operator (all types)	3.60				
Motor patrol operator	4.50				
Oiler-greaser	4.00				
Roller operator (self-propelled)	3.00				
Scraper operator	5.00				
Striping machine operator	4.00				

Area III Counties:
Claiborne, Copiah, Hinds, Holmes, Humphreys, Issaquena, Madison, Rankin, Sharkey, Simpson, Warren and Yazoo.

SUPERSEDEAS DECISION

STATE: Mississippi COUNTY: *SEE BELOW
DECISION NUMBER: MS78-1011 DATE: Date of Publication
Supersedes Decision No.: MS76-1137 dated December 17, 1976 in 41 FR 55271
DESCRIPTION OF WORK: Highway Construction. (Does not include Building Structures in Rest Area Projects, Bridges over Navigable Water, Tunnels and Railroad Construction

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Carpenters	$4.00				
Cement Masons/Finisher	3.99				
Laborers:					
Unskilled	2.65				
Grade Checker	3.50				
Asphalt Raker	3.00				
Truck Driver	2.65				
POWER EQUIPMENT OPERATORS:					
Asphalt Distributor-Spreader Operator	3.24				
Asphalt Plant	3.00				
Bulldozer Operator	4.00				
Concrete Finishing Machine Operator	4.50				
Loader Operator (all types)	2.75				
Mechanic	4.00				
Motor Patrol Operator	4.00				
Oiler-greaser	3.00				
Roller Operator (self-propelled)	3.00				
Scales (all types)	2.65				
Scraper Operator	4.00				
Striping Machine Operator	4.25				
Tractor Operator (wheel type)	2.75				

Area IV Counties:
Attala, Clarke, Jasper, Kemper, Lauderdale, Leake, Neshoba, Newton, Noxubee, Scott, Smith, and Winston.

SUPERSEDEAS DECISION

STATE: Mississippi COUNTIES: *SEE BELOW
DECISION NUMBER: MS78-1012 DATE: Date of Publication
Supersedes Decision No.: MS76-1137 dated December 17, 1976 in 41 FR 55271
DESCRIPTION OF WORK: Highway Construction. (Does not include Building Structures in Rest Area Projects, Bridges over Navigable Waters, Tunnels and Railroad Construction

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Carpenters	$4.50				
Cement Masons/Finisher	5.00				
Electricians	6.00				
Ironworkers, Reinforcing	4.86				
Ironworkers, Structural	4.56				
Laborers:					
Unskilled	2.73				
Asphalt Raker	3.39				
Grader Checker	3.50				
Piledriverman	5.07				
Truck Driver	3.06				
POWER EQUIPMENT OPERATORS:					
Asphalt Distributor-Spreader Operator	3.30				
Backhoe/Shovel Operator	4.25				
Bulldozer Operator	4.54				
Crane, Dragline Operator	5.00				
Loader Operator (all types)	4.05				
Mechanic	4.50				
Mixer Operator (all types)	3.37				
Motor Patrol Operator	5.50				
Oiler-greaser	3.88				
Roller Operator (self-propelled)	2.95				
Scraper Operator	4.25				
Striping Machine Operator	4.00				
Tractor Operator (wheel type)	2.75				

Area V Counties:
Adams, Amite, Covington, Forrest, Franklin, Greene, Jefferson, Jefferson Davis, Jones, Lamar, Lawrence, Lincoln, Marion, Perry, Pike, Walthall, Wayne, and Wilkinson.

SUPERSEDEAS DECISION

STATE: Mississippi COUNTIES: See below*
DECISION NO. MS78-1014 DATE: Date of Publication
Supersedes Decision No. : MS77-1030 dated March 25, 1977, in 42 FR 16356
DESCRIPTION OF WORK: Building Construction (excluding single family homes and garden type apartments up to and including 4 stories), and heavy construction.

*Counties: Hancock, Harrison, Jackson, & Pearl River

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos workers (Pearl River and Hancock)	9.05	.50	1.10		.05
Asbestos workers (Jackson and Harrison)	10.35	.495	1.00	c	.02
Boilermakers	9.95	1.05	1.05		.02
Bricklayers:					
Bricklayers	8.55	.40	.40		
Blockmasons	8.55	.40	.40		
Caulkers & Pointers	8.55	.40	.40		
Marble masons	8.55	.40	.40		
Stonemasons	8.55	.40	.40		
Plasterers	8.45	.40	.40		
Terrazzo workers	8.45	.40	.40		
Tile setters	8.45	.40	.40		
Cement masons	7.95	.40	.40		
Carpenters:					
Carpenters	8.15	.40	.30		.05
Soft floor layers	8.40	.40	.30		.05
Millwrights	8.50	.40	.30		.05
Electricians:					
Electricians	10.10	5%	3%+.20		1/8 of 1%
Cable splicers	10.35	5%	3%+.20		1/8 of 1%
Elevator constructors:	7.83	.545	.35	2%+a&b	.02
Ironworkers: Jackson Co. & eastern 1/3 of Harrison Co. (incl. Biloxi, Keesler AFB, & towns of Howison & Success) Structural, Ornamental, & Reinforcing	9.88	.40	.50		
Ironworkers: Hancock & Pearl River Counties & western 2/3 of Harrison Co. Structural, Ornamental, & Reinforcing	10.19	.30	.35		.04

MS78-1014 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Laborers:					
Laborers	5.05	.15	.15		.05
Asphalt rakers, mason tenders, mortar mixers, pipelayers, pipe wrappers, post hole digger, plasterer tenders	5.20	.15	.15		.05
Line Construction:					
Linemen	10.10	5%	3%+.20		1/8 of 1%
Cable splicers	10.35	5%	3%+.20		1/8 of 1%
Painters (Harrison & Jackson Counties:					
Commercial:					
Brush	7.40		.40		.12
Roller	7.50		.40		.12
Spray	7.70		.40		.12
Industrial:					
Brush	8.20		.40		.12
Spray & Sandblasting	9.50		.40		.12
Painters (Hancock & Pearl River Counties:					
Commercial:					
Brush & roller	5.55				.03
Spray	6.55				.03
Piledrivermen	8.84	.30	.35		
Piledrivermen on creosote material	9.09	.30	.35		
Plumbers & steamfitters	10.44		.50		.02
Roofers:					
Roofers	8.60		.20		
Kettlemen	6.75		.20		
Sheet metal workers	10.55	.55	.81		.14
Sprinkler fitters	10.10	.60	.90		.08

PAID HOLIDAYS:
A-New Year's Day B-Memorial Day C-Independence Day
D-Labor Day E-Thanksgiving Day F-Christmas Day

FOOTNOTES:

a. Holiday: A through F.

b. Employer contributes 4% of regular hourly rate to Vacation Pay Credit for employee who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate to Vacation Pay Credit for employee who has worked in business less than 5 years.

c. Holidays: Labor Day and Thanksgiving Day, provided the employee works at least one day out of the 3 workdays prior to the paid holidays and the first workday after the paid holiday.

MS78-1014 - (Cont'd)

TRUCK DRIVERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	6.35	.35	.35		
GROUP II	6.94	.35	.35		
GROUP III	8.25	.35	.35		

GROUP I: Truck drivers on equipment up to but not including 1½ tons, station wagons, jeeps and automobiles, truck spotters, general warehousemen.

GROUP II: Truck drivers on equipment 1½ tons and up to but not including 5 tons.

GROUP III: Truck drivers on equipment rated 5 tons or 6 yards and over, including heavy equipment such as pole trucks, miss or corning wagons, dumpsters, semi-drivers, agitator, ross carriers, demsey dumps, eculid tricks, forklift trucks in warehouse and similar equipment such as tractors, 10 wheelers, jeeps or dump trucks or pickup trucks pulling two or four wheel trailers hauling equipment.

STATE: Texas COUNTY: Gregg
DECISION NO.: TX78-4014 DATE: Date of Publication
Supersedes Decision No. TX77-4259, dated September 30, 1977, in 42 FR 53161.
DESCRIPTION OF WORK: Building Construction (does not include single family homes and garden type apartments up to and including 4 stories). (See current heavy & highway general wage determination for Paving & Utilities Incidental to Building Construction).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$10.03	.40	.76		.025
BOILERMAKERS	10.00	.50	1.00		.02
BRICKLAYERS	9.80		.35		.05
CARPENTERS:					
Carpenters	8.25				.015
Millwrights	10.50				.015
Piledrivermen	8.75				.015
CEMENT MASONS	6.50				
ELECTRICIANS:					
Electricians	9.05	.60	3%		½%
Cable splicers	9.45	.60	3%		½%
GLAZIERS	5.80				
IRONWORKERS	8.95	.35	.35		.04
LABORERS:					
Laborers	3.40				
Mason tenders	3.80				
Plasterers' tenders	4.40				
LATHERS	6.875	.20	.10		.01
PAINTERS, BRUSH	6.75				
PLASTERERS	7.68				
PLUMBERS & PIPEFITTERS	7.79	.43	.90		.10
ROOFERS	6.40				
SHEET METAL WORKERS	8.455	3%+.35	.50		.055
TILE SETTERS	6.90				
TILE SETTERS' HELPERS	3.65				
TRUCK DRIVERS	3.50				
POWER EQUIPMENT OPERATORS:					
Backhoes	4.50				
Blade graders	4.50				
Bulldozers	4.75				
Cherry pickers	4.50				
Drilling machine operators	3.75				
Loaders	4.50				
Motor graders	5.00				
Rollers	4.87				
Scrapers	4.28				
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

MS78-1014 - (Cont'd)

POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	8.75	.30	.30		
GROUP 2	7.80	.30	.30		
GROUP 3	7.55	.30	.30		
GROUP 4	7.00	.30	.30		
GROUP 5	5.95	.30	.30		
GROUP 6	5.95	.30	.30		

GROUP 1:
Engineer - operating under air pressure

GROUP 2:
Mechanic

GROUP 3:
Air tugger (2 drum), asphalt plant, backhoe, blacksmith, boom tractor, bulldozer, central mixing plant, cherry picker, clamshell, crane derrick, derrick boat, derrick car, dragline, dredge, elevating grader, excavator (power belt), fork-lift, hoist (2 drum) locomotive engineer, marine engineer (chief), master pilot, mixermobile, motor patrol & similar type equipment, paver (21 C.F. or larger), piledriver, recharger, roaming greaser (1st), scoop (skimmer), scraper, shovel, trenching machine (over 18" bucket line width), tournapull, DW-10 & similar pulltype scrapers, traxavator and similar endloaders, welder, welding machines or S/W pumps (2 to 6), well driller, well point pumps

GROUP 4:
Air tugger, asphalt spreader (bituminous distributor) asphalt spreader (bituminous mixer), backfilling machine, conveyor, drill (earth), finishing machine, fireman, heating plant, hoist, marine engineer (assistant), mixer, payloader, and similar endloaders, pilot, power generating plant, pump (concrete), roller, scoopmobile, tractor (with power take-off), trenching machine(18" or smaller bucket line width), tugboat, winch truck

GROUP 5:
Air compressor, form grader, locomotive hostler, oiler (truck crane), pump, roughneck, tractor (without attachments), welding machine

GROUP 6:
Batch scale, deckhand, motorboat (in or outboard), oiler scowman

SUPERSEDEAS DECISION

STATE: Texas COUNTIES: Galveston & Harris
DECISION NO.: TX78-4015 DATE: Date of Publication
Supersedes Decision No. TX77-4258, dated September 30, 1977, in 42 FR 53158.
DESCRIPTION OF WORK: Building Construction (does not include single family homes & garden type apartments up to & including 4 stories). (See current heavy & highway general wage determination for Paving & Utilities Incidental to Building Construction).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$10.60	.80	.80		.06
BOILERMAKERS	10.00	.50	1.00		.02
BRICKLAYERS & STONEMASONS	10.53	.63	.60		.06
CARPENTERS:					
Carpenters & piledrivermen	10.00	.75	.70		.05
Millwrights	10.36	.75	.70		.05
CEMENT MASONS:					
Galveston County	9.86	.52	.55		
Harris County	9.86	.52	.55		.08
ELECTRICIANS:					
Galveston County	12.29	.40	3%+.40		.06
Harris County	11.05	.55	10%		.06
ELEVATOR CONSTRUCTORS:					
Mechanics	10.35	.745	.35	4%+a+b	.02
Helpers	70%JR	.745	.35	4%+a+b	.02
Helpers (Probationary)	50%JR				
GLAZIERS	11.17	.60	.425		.01
IRONWORKERS	10.28	.55	1.00		.10
LABORERS:					
GROUP 1 - Common	7.40	.38	.53		.02
GROUP 2 - Air tool operator (jackhammer-vibrator); Mason tenders; Pipelayers (concrete & clay); Sandblasters; Power buggy operator	7.575	.38	.53		.02
GROUP 3 - Lather tender; Mortar mixers; Plaster tenders & hod carriers	7.675	.38	.53		.02
GROUP 4 - Well driller	7.95	.38	.53		.02
GROUP 5 - Well driller tender	7.525	.38	.53		.02
GROUP 6 - Blaster, powderman	7.825	.38	.53		.02
LATHERS (Harris County only)	10.62	.60	.35		.02
LINE CONSTRUCTION:					
Lineman & cable splicer	11.62	.40	3%		1/2%
Groundmen (1st 6 mos.)	4.07	.40	3%		1/2%
Groundmen (2nd 6 mos.)	4.88	.40	3%		1/2%
Groundmen	6.74	.40	3%		1/2%
MARBLE MASONS:					
Galveston County	10.21				
Harris County	10.46				
MARBLE MASONS' FINISHERS	7.90				

DECISION NO. TX78-4015

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS:					
East Harris County:					
GROUP 1 - All brush painting, hand rolling and all other work other than that below	$11.31				
GROUP 2 - All pneumatic and electric tools & steam cleaning	11.665				
GROUP 3 - All tape and float on drywall	11.435				
GROUP 4 - All paper & vinyl hanging	11.56				
GROUP 5 - All spray painting, sandblasting & waterblasting	11.705				
GROUP 6 - Steeple jack work, hot materials	11.97				
Remainder of Harris County:					
GROUP 1 - All brush painting, hand roller, steam cleaning, all pneumatic tools	9.795	.565	.45	.40	.04
GROUP 2 - All spray painting, sandblasting, waterblasting	10.17	.565	.45	.40	.04
GROUP 3 - Tape, float & drywall	9.92	.565	.45	.40	.04
GROUP 4 - Steeple jack work, hot materials	10.42	.565	.45	.40	.04
Galveston County:					
GROUP 1 - Painters on new work	9.65	.55	.50	.75	.035
GROUP 2 - Painters on swinging stage work or using materials injurious to the skin	9.90	.55	.50	.75	.035
GROUP 3 - Painters on rework & repaint	8.895	.55	.50	.75	.035
PIPEFITTERS:					
That part of Galveston County east of the Trinity River	11.345	.545	.60		.10
That part of Galveston County west of the Trinity River & all of Harris County	11.35	.45	.65		.045
PLASTERERS	10.50	.77	.30		.02
PLUMBERS:					
Galveston County	11.345	.545	.60		.10
Harris County	11.17	.65	.70		.12
ROOFERS	9.11	.20	.35	.25	.03
SHEET METAL WORKERS:					
Galveston County	10.52	.70	.50	.50	.10
Harris County	10.83	.325	.645	.42	.06
SOFT FLOOR LAYERS	9.57	.35	.45		.09
SPRINKLER FITTERS	11.15	.65	.95		.08
TERRAZZO WORKERS:					
Galveston County	10.21				
Harris County	10.46				
TERRAZZO WORKERS' FINISHERS:					
Terrazzo workers' finishers	7.90				
Terrazzo floor machinemen	8.05				
Terrazzo base machinemen	8.20				

DECISION NO. TX78-4015

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TILE SETTERS:					
Galveston County	$10.21				
Harris County	10.46				
TILE SETTERS' FINISHERS	7.90				
TRUCK DRIVERS:					
GROUP 1 - Under 1½ tons; wash, grease, tireman, fuel pump operator when used on construction jobs	7.84				
GROUP 2 - 1½ thru 2½ tons; dump truck less than 7 yds.	8.23				
GROUP 3 - Over 2½ tons; farm tractors; fork lifts, floats	8.45				
GROUP 4 - Euclids (not self-loading)	8.61				
GROUP 5 - Warehousemen	8.10				
GROUP 6 - Material checkers; pick-up drivers	9.14				
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

FOOTNOTES FOR ELEVATOR CONSTRUCTORS:

a - 1st 6 mos. - none; 6 mos. to 5 yrs. - 2%; over 5 yrs. - 4% of basic hourly rates

b - Paid Holidays A thru G

PAID HOLIDAYS FOR ELEVATOR CONSTRUCTORS:

A-New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; G-the Friday after Thanksgiving Day; F-Christmas Day

DECISION NO. TX78-4015

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
GROUP 1	$10.37	.45	.85		.06
GROUP 2	8.78	.45	.85		.06
GROUP 3	8.24	.45	.85		.06
GROUP 4	8.06	.45	.85		.06

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP 1 - Heavy Duty Mechanic; Blade Grader, Self-propelled; Bull Clam; Back Filler; Derrick - power operated (all types); Clam Shell; Draglines; Push Cat Operator; Bull Dozer & all types Cat Tractors; Cable-Way; Backhoe; Shovel, power operated; Crane, power operated (all types); Elevating Grader, Self-propelled; Hoist, Motor-Driven, Two Drums or more, Mix Mobile; Water Well Drilling Machines, Used on Construction; Building Elevator, used on Construction; Tug Boat Operator, Assigned to Construction; Winch Truck; Locomotive Crane; Concrete Mixer, 14 cu. ft. or more; Paving Mixer (all types); Pile Driver; Scraper, Heavy Type, over 3 cu. yds.; Trenching Machines (all sizes); Gradall; High-Lift; Foundation Boring Machine; Gasoline or Diesel Driven Welding Machines, 7 or more; Pumpcrete Machine Operator; Turnapulls; DW-10 Caterpillar, S-18 Euclid and similar Tractors; Asphalt Plant Mixer Operator on job; Crusher Operator on job; Scoopmobiles; Forklift used on construction (not including warehousing); Well Point Pump; Concrete Batch Plant Operator; Pneumatic Rollers, Self-propelled; All other equipment of similar nature coming under the Heavy Equipment Class, when power operated

GROUP 2 - Air Compressors; Blade Grader, Towed; Flex Plane; Form Grader, Concrete Mixer, less than 14 cu. ft.; Pumps; Pulsometer; Truck Crane Driver; Gasoline or diesel Driven Welding Machines (on 3 or more, up to 6 machines); Hoist, Single Drum; Scraper, 3 cu. yds. or less; Wagon Drill Operator; Conveyor; Generator, Gasoline or Diesel-driven, over 1500 watts; Rubber Tired Farm Tractor with attachments; A Light Equipment Operator may run 1 or 2 105 cfm compressors; All other equipment of similar nature coming under the Light Equipment Class, when power operated

GROUP 3 - Fireman

GROUP 4 - Oiler

[FR Doc. 78-4151 Filed 2-16-78; 8:45 am]

federal register

FRIDAY, FEBRUARY 17, 1978
PART III

DEPARTMENT OF AGRICULTURE

Office of the Secretary

■

PRIVACY ACT OF 1974

Additional System of Records

Privacy

Security

Confidentiality

[3410-01]

DEPARTMENT OF AGRICULTURE
OFFICE OF THE SECRETARY

PRIVACY ACT OF 1974

Notice of Systems of Records

Notice is hereby given that the Department of Agriculture, in accordance with 5 U.S.C. 552a (e) (4) and (11), intends to adopt the notice of an additional system of records set forth below. Although the Privacy Act requires only that the portion of each system which describes the "routine uses" of that system be published for public comment, USDA invites such comment on all portions of this notice.

Interested persons may submit written comments on this notice to: Director, Research and Operations Division, Office of the General Counsel, U.S. Department of Agriculture, Washington, D.C. 20250, on or before April 18, 1978. All comments submitted will be available for public inspection during regular business hours in Room 2321 of the South Building, USDA, 12th Street and Independence Avenue SW., Washington, D.C. 20250.

This additional notice will be adopted without further publication as set forth below 60 days after the date of its publication in the FEDERAL REGISTER (April 18, 1978) unless modified by a subsequent notice to incorporate comments received from the public.

USDA/FNS-8

System Name: Food Service Management Company Registration System for the Summer Food Service Program for Children-USDA/FNS.

Security location: Special Feeding Programs Branch, Child Nutrition Division, Food and Nutrition Service, U.S. Department of Agriculture, 201 14th Street SW., Room 3300-B, Washington, D.C. 20250.

Categories of individuals covered by the system: Included in this system are, for food service management companies applying for registration in the Summer Food Service Program for Children, past (within 3 years) and present (1) company owners, directors, officers, and (2) local officials responsible for the operation of the food preparation facilities and (3) any of the persons listed in (1) or (2) who have any relationship to any Summer Food Service Program for Children sponsor or any food service management company which participated in the Program in the last 3 years. For the purposes of this Program, relationship shall be defined as: to his knowledge he or his immediate family, partners, or organization in which his immediate family or partner has a financial or other interest, or with whom he is negotiating or has any arrangements concerning prospective employment, with or without payment.

Categories of records in the system: The system consists of name and social security number (when provided) of (1) and (2) of the preceding paragraph, and name, company or sponsor name of relation, name of relation and relationship of (3) of the preceding paragraph.

Authority for maintenance of the system: 42 U.S.C. 1771

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: (1) Referral to State agencies and Food and Nutrition Service Regional Offices, upon request, charged with the responsibility of determining registration or nonregistration of food service management companies; (2) Referral to the appropriate agency, whether Federal, State or local, charged with the responsibility of investigating or prosecuting a violation of law, or of enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto, of any record within this system when information available 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 rule, regulation, or order issued pursuant thereto; (3) Referral to a court, magistrate, or administrative tribunal, or to opposing counsel in a proceeding before any of the above, of any record within the system which constitutes evidence in that proceeding, or which is sought in the course of discovery; and (4) 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 that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders and magnetic tapes.

Retrievability: Records can be retrieved by food service management company name, by number assigned to the food service management company, by an individual's social security number, and by an individual's name.

Safeguards: Records are kept in either locked filing cabinets or in locked offices. The computer tapes will have a password master file access, and the tapes will be kept in locked filing cabinets or in locked offices.

Retention and disposal: Records are maintained for two years following the year of application for registration. Thereafter, they are transferred to Federal Archives and Records Centers and maintained for three additional fiscal years before disposal.

System manager(s) and address: Manager, Child Nutrition Programs, Food and Nutrition Service, United States Department of Agriculture, Washington, D.C. 20250 (202-447-8130).

Notification procedure: An individual may request information regarding this system of records, or information as to whether the system contains records pertaining to him from the appropriate manager as set forth in the preceding paragraph. A request for information pertaining to an individual should contain the individual's name, and if known the name of the food service management company(s) which supplied the information pertaining to him.

Record access procedures: An individual may obtain information as to the procedures for gaining access to a record in the system which pertains to him by submitting a written request to the appropriate system manager listed above. The envelope and the letter should be marked "Privacy Act Request."

Contesting record procedures: Individuals desiring to contest or amend information maintained in the system should direct their request to the system manager listed above, the reasons for contesting it, and the proposed amendment to the information.

Record source categories: Information in this system is provided by food service management companies which apply for registration in the Program, and the applicable State agencies or Food and Nutrition Service Regional Offices.

Dated: February 10, 1978.

CAROL TUCKER FOREMAN,
Acting Secretary.

[FR Doc. 78-4196 Filed 2-16-78; 8:45 am]

federal register

FRIDAY, FEBRUARY 17, 1978

PART IV

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

■

MANDATORY FLOOD INSURANCE

Purchase Requirements

[4210-01]

Title 24—Housing and Urban Development

CHAPTER X—FEDERAL INSURANCE ADMINISTRATION, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. R-78-507]

MANDATORY FLOOD INSURANCE

AGENCY: Federal Insurance Administration.

ACTION: Final rule.

SUMMARY: This rule amends Parts 1909, 1914, and 1925 of 24 CFR to include changes in the National Flood Insurance Program imposed by the Housing and Community Development Act of 1977. The rule updates, also, the list of States exempt from the mandatory insurance purchase requirements pursuant to Section 102(c) of the Federal Disaster Protection Act of 1973, as amended.

EFFECTIVE DATE: February 17, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard W. Krimm, Assistant Secretary, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: Section 704 of Pub. L. 95-128 increased the maximum limits of flood insurance coverage available under the Regular Program for residential properties and small business concerns to better reflect today's real estate and property values. Thus, the ceiling of flood insurance coverage on residential structures is increased to $185,000, and on contents to $60,000. In the case of a small business property, $250,000 worth of flood insurance coverage for the structure shall be available. It must be emphasized that risk premium actuarial rates would prevail for additional insurance coverage available under the Regular Program. The increased limits were published in the FEDERAL REGISTER at 43 FR 2572 on January 17, 1978. Section 701(b) extended the Emergency Program to September 30, 1978. Thus, technical amendments were necessary to reflect that change.

Section 703(b) of Pub. L. 95-128 amended the definition of "financial assistance for acquisition or construction purposes" to exclude all disaster assistance unless flood-related. This exclusion of nonflood-related disaster (i.e., fire, tornado) assistance from that definition means that flood insurance is no longer required as a condition for a Federal loan to repair damaged property in a community which suffers a disaster unrelated to flooding.

It has been determined that these rule changes do not have a substantial impact upon the quality of the environment. A finding to that effect is included in the formal docket file in the Office of the Rules Docket Clerk and is available for public inspection and copying.

NOTE.—It is hereby certified that the economic and inflationary aspects of these rule changes have been carefully evaluated in accordance with OMB Circular A-107 and E.O. 11821.

As the purpose of these revisions is to reflect legislative history, and for the convenience of the public, further notice and public procedure are unnecessary, and cause exists to make these revisions effective upon publication. Accordingly, Subchapter B of Chapter X of Title 24 of the Code of Federal Regulations is revised as follows:

PART 1909—GENERAL PROVISIONS

1. Section 1909.1 is amended to read as follows:

§ 1909.1 Definitions.

* * * * *

"Financial assistance for acquisition or construction purposes" means any form of financial assistance which is intended in whole or in part for the acquisition, construction, reconstruction, repair, or improvement of any publicly or privately owned building or mobile home, and for any machinery, equipment, fixtures, and furnishings contained or to be contained therein, and shall include the purchase or subsidization of mortgages or mortgage loans but shall exclude assistance pursuant to the Disaster Relief Act of 1974 (other than assistance under such Act in connection with a flood). It includes only financial assistance insurable under the Standard Flood Insurance Policy.

2. Section 1909.2(a) is amended to read as follows:

§ 1909.2 Description of program.

(a) The National Flood Insurance Act of 1968 was enacted by Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448, August 1, 1968) to provide previously unavailable flood insurance protection to property owners in flood-prone areas. Mudslide (as defined in § 1909.1) protection was added to the Program by the Housing and Urban Development Act of 1969 (Pub. L. 91-152, December 24, 1969). Flood-related erosion (as defined in § 1909.1) protection was added to the Program by the Flood Disaster Protection Act of 1973 (Pub. L. 93-234, December 31, 1973). The Flood Disaster Protection Act of 1973 requires the purchase of flood insurance on and after March 2, 1974, as a condition of receiving any form of Federal or federally-related financial assistance for acquisition or construction purposes with respect to insurable buildings and mobile homes within an identified special flood, mudslide (i.e., mudflow), or flood-related erosion hazard area that is located within any community participating in the Program. The Act also requires that on and after July 1, 1975, or one year after a community has been formally notified by the Administrator of its identification as community containing one or more special flood, mudslide (i.e., mudflow), or flood-related erosion hazard areas, no such Federal financial assistance shall be provided within such an area unless the community in which the area is located is then participating in the Program, subject to certain exceptions. See FIA published Guidelines at § 1909.4(c).

* * * * *

3. Section 1909.3 is amended to read as follows:

§ 1909.3 Emergency program.

The 1968 Act required a risk study to be undertaken for each community before it could become eligible for the sale of flood insurance. Since this requirement resulted in a delay in providing insurance, the Congress, in section 408 of the Housing and Urban Development Act of 1969 (Pub. L. 91-152, December 24, 1969), established an Emergency Flood Insurance Program as a new Section 1336 of the National Flood Insurance Act (42 U.S.C. 4056) to permit the early sale of insurance in flood-prone communities. The emergency program, which under existing law extends to September 30, 1978, does not affect the requirement that a community must adopt adequate flood plain management regulations pursuant to Part 1910 of this subchapter but permits insurance to be sold before a study is conducted to determine risk premium rates for the community. The program still requires upon the effective date of a FIRM the charging of risk premium rates for all new construction and substantial improvements and for higher limits of coverage for existing structures.

4. Section 1909.4 is amended as follows: Paragraph (a)(5) is amended; paragraph (b)(1) is amended and paragraphs (b) (12), (13), and (14) are added to read as follows:

§ 1909.4 References.

(a) The following are statutory references for the National Flood Insurance Program, under which these regulations are issued:

* * * * *

(5) Pub. L. 95-128 (effective October 12, 1977).

(b) The following are references relevant to the National Flood Insurance Program:

(1) Executive Order 11988 (Floodplain Management, dated May 24, 1977 (42 FR 26951, May 25, 1977)).

* * * * *

(12) Executive Order 11990 (Protection of Wetlands, dated May 24, 1977 (42 FR 26951, May 25, 1977)).

(13) Water Resources Council (Guidance for Floodplain Management) (42 FR 52590, September 30, 1977).

(14) Unified National Program for Floodplain Management of the United States Water Resources Council, July 1976.

PART 1914—COMMUNITIES ELIGIBLE FOR THE SALE OF INSURANCE

5. Section 1914.1(b) is amended to read as follows:

§ 1914.1 Purpose of part.

* * * * *

(b) 42 U.S.C. 4056 authorizes an emergency implementation of the National Flood Insurance Program whereby, for a period ending on September 30, 1978, the Administrator may make subsidized coverage available to eligible communities prior to the completion of detailed risk studies for such areas. This Part also describes procedures under the emergency program and lists communities which become eligible under that program.

PART 1925—EXEMPTION OF STATE-OWNED PROPERTIES UNDER SELF-INSURANCE PLAN

6. Section 1925.14 is amended to read as follows:

§ 1925.14 States exempt under this part.

The following States have submitted applications and adequate supporting documentation and have been determined by the Administrator to be exempt from the requirement of flood insurance on State-owned structures and their contents because they have in effect adequate State plans of self-insurance: Maine, Georgia, Oregon, and Florida.

(National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued at Washington, D.C., February 3, 1978.

PATRICIA ROBERTS HARRIS,
Secretary, Housing and Urban Development.

[FR Doc. 78-4277 Filed 2-16-78; 8:45 am]

[4210-01]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

[Docket No. N-78-842]

MANDATORY PURCHASE OF FLOOD INSURANCE

Guidelines

AGENCY: Federal Insurance Administration, Department of Housing and Urban Development.

ACTION: Notice.

SUMMARY: The revised Guidelines provide guidance to the many Federal agencies and private lending institutions subject to the flood insurance purchase requirements of section 102 of the Federal Disaster Protection Act of 1973, as amended. The revisions are necessary due to changes made by the Housing and Community Development Act of 1977.

EFFECTIVE DATE: February 17, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator for Flood Insurance, Office of Flood Insurance, Federal Insurance Administration, Washington, D.C. 20410, 202-755-5581.

SUPPLEMENTARY INFORMATION: The Flood Disaster Protection Act of 1973 (Pub. L. 92-234, December 31, 1973, hereinafter referred to as the "Act") requires the purchase of flood insurance on and after March 2, 1974, as a condition of receiving any form of Federal or Federally related financial assistance for acquisition or construction purposes in identified zones, A, A1-30, A99, VI-30, A0, VO, M, and E within any community currently participating in the National Flood Insurance Program. This federal program is authorized by the National Flood Insurance Act of 1968 (42 U.S.C. 4001-4127).

Until July 1, 1975, the statutory requirement for the purchase of flood insurance did not apply until and unless the community entered the program and the special flood hazard areas had been identified. However, after July 1, 1975, the requirement applies to all identified special flood hazard areas within the United States. After that date, no Federal financial assistance for acquisition or construction of a structure can be provided in these areas unless the community has entered the program and flood insurance has been purchased, provided that the community has been identified as flood-prone for at least 1 year.

The term Federal financial assistance includes loans, grants, guarantees, and similar forms of direct and indirect assistance from Federal agencies, such as FHA or VA mortgage insurance. For communities participating in the National Flood Insurance Program, it also includes conventional loans from Federally insured, supervised or approved lending institutions.

Acquisition or construction purposes include all forms of construction, reconstruction, repair, or improvement to real estate, whether or not the value of the building is enhanced, and the flood insurance purchase requirement applied to both private and public recipients, except as otherwise noted in the guidelines. Terms used in the National Flood Insurance Program appear at 24 CFR Part 1909, and apply to these guidelines.

In addition to increasing the maximum limits of flood insurance coverage available under the regular Program and extending the Emergency Program to September 30, 1978, the Housing and Community Development Act of 1977 contained two other important revisions.

The first, section 703(b) of Pub. L. 95-128, amended the definition of "financial assistance for acquisition or construction purposes" to exclude disaster assistance pursuant to the Disaster Relief Act of 1974 (Pub. L. 93-288) unless flood related. This exclusion of nonflood-related disaster (i.e., fire, tornado) assistance from the definition statutorily means that flood insurance is no longer required as a condition for a Federal loan to repair damaged property in a community which suffers a disaster unrelated to flooding. The Administrator for the Federal Disaster Assistance Administration (FDAA) has determined that the FDAA will, pursuant to its mandate, require community participation in the Program and purchase of flood insurance by the applicant for permanent work not rendered in connection with a flood.

The second replaced section 202(b) of the Act with an entirely new section 202(b). Section 202(b) formerly limited the ability of Federally regulatory, supervised and insured lending institutions to make conventional mortgage loans in special flood hazard areas of communities which were not participating in the Program within one year from the community's flood-prone identification. The new section requires the Federal agencies responsible for regulating, approving, supervising, and insuring the banks and savings and loan institutions to require those financial institutions to notify a borrower, before the loan is made whether, in the event of flood damage to the improved real estate or mobile home, Federal disaster assistance will be available to the property.

The guidelines also reflect the Secretary's determination, pursuant to section 1340 of the National Flood Insurance Act of 1968 (Pub. L. 90-448), that operation of the flood insurance program authorized by the National Flood Insurance Act of 1968 would be assisted materially by the Federal Government's assumption, in whole or in part, of the operational responsibility for flood insurance.

Substantive changes in these guidelines presently are under consideration.

A. BACKGROUND

1. *Description of program and program limits.* (a) The National Flood Insurance Program was enacted by the Congress in 1968 as a means of making flood insurance, which was previously unavailable from the private insurance industry, available at reasonable rates within communities that meet certain flood plain management measures, consistent with Federal criteria, to reduce or avoid flooding in connection with future construction in their flood plains.

(b) The program is highly subsidized and seeks in its early stages to assure wiser future flood plain management rather than to obtain adequate premiums for the coverage provided. However, flood insurance for buildings constructed within identified special flood hazard areas after December 31, 1974 (or the effective date of the initial Flood Insurance Rate Map, whichever is later), are subject to actuarial rather than the subsidized premium rates. Such rates can be prohibitively expensive unless the buildings are properly elevated or flood-proofed to lessen flood damage.

(c) Communities entering the National Flood Insurance Program generally do so in two phases. They first become eligible for the sale of flood insurance in the Emergency Program, under which lower limits of coverage are available and all such insurance is sold at subsidized premium rates. After the flood insurance rate study has been completed, a community enters the Regular Program under which full limits of coverage are available.

(d) Under the Regular Program, buildings constructed on or before December 31, 1974 (or before the effective date of the rate map, if later), as well as those outside of the special flood hazard areas, remain eligible for the lower available coverage (known as "first layer" coverage) at either subsidized rates or actuarial rates, whichever are cheaper. All other buildings require actuarial rates on both layers of coverage.

(e) Regardless of date of construction, actuarial rates are always required for the full limits of coverage, although subsidized coverage may be available for lower amounts of coverage for existing construction.

(f) Present limits of coverage under the Emergency Program (except in Alaska, Hawaii, the Virgin Islands, and Guam) are $35,000 on single family dwellings and $100,000 on all other types of buildings, with $10,000 per unit available for residential contents, and $100,000 per building available for nonresidential contents. In Alaska, Hawaii, the Virgin Islands, and Guam, limits on residential structure coverage under the Emergency Program are increased to $50,000 on single-family dwellings and $150,000 on buildings containing more than one unit.

(g) The following chart provides the limits of coverage available and maximum amounts required under section 102.

AVAILABLE LIMITS OF COVERAGE FOR EXISTING AND NEW CONSTRUCTION UNDER THE REGULAR PROGRAM

	First layer (emergency)	Second layer (regular)	Total	Maximum required under the act
Single family residential				
Except in Hawaii, Alaska, Guam, U.S. Virgin Islands	$35,000	$150,000	$185,000	$70,000
In Hawaii, Alaska, Guam, U.S. Virgin Islands	50,000	[1] 150,000	185,000	100,000
Other residential				
Except in Hawaii, Alaska, Guam, U.S. Virgin Islands	100,000	150,000	250,000	200,000
In Hawaii, Alaska, Guam, U.S. Virgin Islands	150,000	[2] 150,000	250,000	250,000
Small business	100,000	150,000	250,000	200,000
Churches and other properties	100,000	100,000	200,000	200,000
Contents				
Residential	10,000	50,000	60,000	20,000
Small business	100,000	200,000	300,000	200,000
Churches, other	100,000	100,000	200,000	200,000
Properties (per unit)	[3]	[3]	[3]	[3]

[1] N.B. add to $35,000.
[2] N.B. add to $100,000.
[3] No change in amounts available and amounts required for insurable property pursuant to the emergency program.

(h) The regulations governing the National Flood Insurance Program are set forth in Title 24 of the Code of Federal Regulations, Chapter X Subchapter B, commencing at Part 1909. Specific information on insurance coverage and rates is set forth in 24 CFR Part 1911, as amended.

(2) *Community eligibility and special flood hazard area identifications.* (a) Once a community has met eligibility requirements for the Emergency Program and has submitted a copy of its preliminary flood plain management measures, the Federal Insurance Administration arranges for the sale of flood insurance within the community in less than two weeks (normally, within 6 working days). The eligibility date for a particular community is always published in the FEDERAL REGISTER, indexed both under HUD and under Federal Insurance Administration, at 24 CFR Part 1914.

(b) Similarly, lists of communities with newly identified special flood hazard areas are regularly published in the FEDERAL REGISTER under 24 CFR Part 1915. However, the maps showing the boundaries of such areas are not published in the FEDERAL REGISTER and must be obtained or verified as indicated below.

(c) In addition to publication in the FEDERAL REGISTER, daily notifications are made to HUD regional offices and to the fiscal agent of changes in community status within their areas. A list of all eligible communities, indicating the dates of all hazard area identifications, are published in booklet form every other month with information current as of the last calendar day of the previous month and are distributed without cost to anyone having an interest in the flood insurance program. However, because of printing and mail delivery time lags, the published lists available at any given time may be as much as 60 days old. To ascertain whether a community not listed in this booklet has been subsequently identified as flood prone, an inquiry may be made to the fiscal agent in the appropriate state or by calling the FIA toll free numbers 800-424-8872 or 800-424-8873.

(d) It is not the intent of the program to require the purchase of flood insurance for buildings located outside the special flood hazard area. Consequently, after the publication of flood maps, the Administrator may issue amendments to the maps correcting technical mapping deficiencies. See 24 CFR Part 1920.

(e) The descriptions of special flood hazard areas contained in Flood Hazard Boundary Maps and Flood Insurance Rate Maps in some instances may not be clear enough to permit lending institutions to decide with certainty and precision whether or not property which is the security for a loan or which is the subject of a loan is located in such an area. Accordingly, for the purposes of the Flood Disaster Protection Act of 1973 and for the loan, the Federal Insurance Administrator has determined that a lender's decision made in the exercise of due diligence and good faith as to the location of a property, which is the subject of a loan, on such a map will be final and sufficient to comply with the Act.

(f) In such instances where a good faith finding has been made by a lender or its agent, acting pursuant to the requirements of the Act, that the property is outside the special flood hazard area, such finding as to the location of the property shall be final with respect to such property, regardless of any subsequent contrary conclusion by any person, agency, or body, and regardless of any change of ownership of the property or status of the loan or transaction, provided, at the time of any subsequent making, increasing, extension, or renewal of a loan with respect to which the property is the subject, the map upon which the original finding was based is still in effect and remains unrevised as to the property in question.

(g) Because the most current information on program changes is that which is periodically published in the FEDERAL REGISTER, a publication routinely available to Federal agencies but not private lenders, private lenders might consider subscribing to the FEDERAL REGISTER directly. The FEDERAL REGISTER may be obtained from the Superintendent of Documents, U. S. Government Printing Office, Washington, D.C. 20402, at a subscription price of $5 per month or $45 per year, payable in advance.

3. *Where to obtain insurance policies, maps, and program information.* (a) Insurance policies under the National Flood Insurance agent or broker serving the eligible community, or from the servicing agent (see 24 CFR Part 1912 at § 1912.3).

(b) The Flood Hazard Boundary Maps are the first maps prepared in the identification process. These indicate the locations of identified special flood hazard areas and are always maintained on file within each eligible community in a repository designated by the mayor or chief executive officer, usually the building inspector's office or the city clerk's office. The address of such repository is published in the FEDERAL REGISTER at 24 CFR Part 1914. The Flood Insurance Rate Maps are issued later following a detailed study of the flood hazard area. These maps delineate degrees of flood hazard and include more precise area identification.

(c) Maps, literature, and policy application forms and manuals are available from the servicing agent. The servicing agent is also equipped to answer questions on eligibility of communities. scope of coverage, and maximum amounts of insurance available with respect to particular types of buildings.

(d) Specific questions relating to insurance coverage should be referred to individual insurance agents or brokers or to the servicing agent; general questions on the Program that cannot be answered may be referred to the nearest HUD regional office; or to the Federal Insurance Administration, HUD, Washington, D.C., 202-755-5581, or its toll-free numbers 800-424-8872 or 800-424-8873.

(e) Copies of statutes, program regulations, and community eligibility application forms may be obtained from HUD regional offices or directly from the Federal Insurance Administration in Washington.

B. GENERAL GUIDELINES FOR LENDERS

1. *Property eligible for flood insurance coverage.* (a) For the purposes of the National Flood Insurance Program, the term building is defined to include mobile homes, as well as any walled and roofed structure, other than a gas or liquid storage tank, that is principally above ground and affixed to a permanent site. Thus, nearly all types of industrial, commercial and agricultural buildings, such as lumber sheds, machinery storage sheds, grain storage bins, and silos are eligible for coverage, but each building and its contents (if eligible) must generally be insured separately.

Exception. The owner of a single family dwelling may apply up to 10 percent of his coverage to the appurtenant private structures on the premises if they are used primarily in connection with the occupancy of the dwelling.

(b) Mobile homes are eligible for coverage if they are on foundations, whether or not permanent, and regardless of whether the wheels are removed either at time of purchase or while on the foundation. Travel trailers and campers are not eligible for coverage, and thus the insurance purchase requirement of the Act does not apply to them.

(c) Where a condominium plan includes traditional townhouses and row houses that are contiguous to the ground and capable of separate ownership and legal descriptions, these units are eligible for coverage as single-family dwellings, regardless of the type of common walls. However, high-rise or verticle condominium units are not eligible for separate coverage, since all condominium owners normally share ownership in, and liability for, structural damage to the common areas which comprise the entire structure less the individual units. There are normally two ways to insure a high-rise condominium.

The policy may be issued in the name of the condominium owners' association, up to a maximum coverage of $100,000 per building under the Emergency Program and $250,000 per building under the Regular Program. In such a case, when an individual loan is obtained to purchase a condominium unit, the lender should see to it that flood insurance coverage is obtained by the owner's association in an amount equal to the amount of the loan, and that the new purchaser's name is added to the schedule of named insured until the association has purchased the maximum amount of coverage for which the building can be insured under the Program. New subsequent condominum unit purchasers would simply have their names added to the common policy on the building.

However, if an owner's association will not buy structure coverage in its own name for the commonly owned areas, an individual unit owner may purchase structure coverage separately, in the amount of his insurable interest in the structure (as stated in the condominium owners association agreement). In such cases, the policy should be issued to the individual and the condominium association, as named insureds, "as their interests may appear." Then, at the time of a loss involving damage to the structure's commonly owned areas, the unit owner could apply to flood-damaged commonly owned areas of the structure, a percentage of the face value of his policy equal to his insurable interest in those areas. In this case, the individual unit owner would be required to purchase coverage in the amount of the loan or mortgage on his individual insurable interest in the structure or the maximum amount available under the Program for a single-family dwelling, whichever is less.

(d) All condominium unit owners in eligible communities are entitled to purchase individual contents coverage, however, and the owners of units on the first two floors of buildings located within special flood hazard areas should be especially encouraged to do so, since they are most likely to sustain individual damage.

(e) Regardless of the type of condominium involved, contents coverage up to $10,000 per unit under the Emergency Program, and $50,000 additional under the Regular Program for a total amount of $60,000, is available for each condominium unit owner. Contents coverage for a mobile home, however, is available only if the mobile home is eligible for structure coverage, as discussed in paragraph (b) above.

(f) Although structure coverage may be written on buildings that are not fully enclosed, flood insurance coverage is applicable to contents only while in an enclosed structure. Thus, contents coverage cannot be written on the contents of a three-walled machinery shed or a similar type of open building, and flood insurance on such contents is never required.

2. *When the purchase of flood insurance is required.* (a) After March 2, 1974, flood insurance is required by the Act when financial assistance is provided to finance the acquisition, construction, repair, or improvement of a building or mobile home located within an identified Zone A, A1-99, AO, V, V1-30, and VO in a community in which flood insurance under the program is currently being sold. Unless the community involved is participating in the National Flood Insurance Program, insurance is not available.

Note that under the Housing and Community Development Act of 1977, federally regulated, approved, supervised, or insured lending institutions must notify purchasers or lessees obtaining loans secured by real improved real property or a mobile home in a designated special flood hazard area as to whether, in the event of flood damage to that property, Federal disaster assistance will be available.

(b) The Federal Insurance Administration and the Federal Home Loan Bank Board have construed the Act to include not only the origination of mortgage loans but also the purchase of mortgage loan portfolios in the secondary market and participations thereof. Thus, mortgage loans and interests in mortgage loans purchased after March 2, 1974, must be covered by flood insurance, where applicable, unless the original loan was made pursuant to a formal loan commitment issued prior to March 2, 1974. The Federal Deposit Insurance Corporation, the Federal Reserve Board and the Comptroller of the Currency have construed the term financial assistance to include only the origination of mortgage loans and not the purchase of loans in the secondary markets in this respect; therefore, regulations of these instrumentalities differ. See 12 CFR Parts 22, 28, 339, 523, and 760.

(c) The mere assumption of an existing mortgage by the new purchaser of a property after March 2, 1974, does not require the purchase of flood insurance if the original mortgage was made before March 2, 1974, and there is no material change in its terms after that date. However, if there is any extension, increase, or renewal, including a novation, then flood insurance is required if the insurance purchase requirement has become applicable since the date of the mortgage.

(d) Since mobile homes are treated in the same manner as improved real estate under the Act, any financing of mobile homes on foundations requires the purchase of flood insurance if located or to be located in a special flood hazard area. Where a mobile home has not yet been placed on a foundation at the time of closing, but it is known that the home will be placed on a foundation located in a special flood hazard area, flood insurance coverage of the mobile home must be obtained as a condition of the loan.

(e) Flood insurance is required on personal property, as well as inventory, machinery and equipment, only when the loan from a private lender involves not only a security interest in the personal property, but also a security interest in real estate or else a related real estate loan that is made, extended, or refinanced at the same time as the personal property loan. Private loans for personal property that do not involve direct or indirect Federal assistance (such as guarantees) or mortgages on real estate, are not subject to the flood insurance purchase requirement, regardless of where the property is to be located. The lender, however, may require flood insurance on its own initiative.

(f) The burden of determining the location of the real property to be financed is on the lender and cannot be discharged merely by obtaining a self-certification from the borrower that the property is not located in an area having special flood hazards. If an appraisal of the property is required, its location in relation to an identified special flood hazard area should be part of the appraisal. If no appraisal is obtained, then the lending institution should verify the location.

(g) The insurance purchase requirement with respect to a particular community is altered by the issuance or withdrawal of FIA's official flood maps. If the Federal Insurance Administration withdraws a Flood Hazard Boundary Map (for any reason), the insurance purchase requirement is completely suspended during the period of withdrawal. However, if the community is in the Regular Program and only the Flood Insurance Rate Map (which controls actuarial rates) is withdrawn but a Flood Hazard Boundary Map remains in effect, then flood insurance is still required, but the maximum amount of insurance available is first layer coverage under the Emergency Program, since the community's Regular Program status is suspended while the map is withdrawn.

(h) Because of possible changes in a community's eligibility and area identification status during the implementation of the Act, the Federal Insurance Administration believes that the insurance purchase requirements of the Act must be applied on the basis of the circumstances existing as of the date of closing. Lenders may accomplish this by placing a condition at the time of commitment that insurance will be required if the property is located in a special flood hazard area at the time of closing. To make the imposition of the flood insurance purchase requirement on the date of closing a practicable and equitable procedure, the Federal Insurance Administration urges Federal agencies and instrumentalities to provide for notice to the borrower in the loan approval or commitment that if the flood insurance purchase requirement is applicable on the date of closing, it will be implemented.

For example, the date on which flood insurance is required by a Federal agency may be the date of the formal loan approval or commitment. However, if flood insurance cannot be required at the time of approval or commitment, but the status of the structure or community changes so that at the time of closing flood insurance should be required, the purchase of insurance should be imposed at the time of closing. If the status changes so that the insurance purchase requirement does not become applicable until more than 30 days after the loan approval or commitment and the Federal agency or instrumentalities believes it cannot practically impose such requirement on the basis of the status at the time of closing, it may choose not to do so. The insurance purchase requirement may also be affected by the withdrawal of a map or the suspension of a community from the program. The insurance purchase requirement still technically applies, although insurance cannot be purchased. If the community reenters the program, lapsed policyholders should be required to purchase new policies. Loans do not, however, have to be called when policies lapse due to suspension.

(i) As in all other matters treated in these quidelines, however, Federal supervisory instrumentalities and private lenders may impose more stringent requirements for their own protection and the protection of their borrowers if they choose to do so.

3. *Amount of flood insurance required.* (a) For communities in the Emergency Program, the maximum amount of flood insurance required is the maximum amount available under the Emergency Program. For communities in the Regular Program, the maximum amount required is not the maximum amount available under the Regular Program, but only the emergency program limits increased by a multiple of two (2). However, these requirements are subject to the qualifications set forth below.

(b) The administration of the insurance purchase requirement of the Act should conform as closely as practicable to normal commercial lending practices. Thus, while flood insurance is required in the amount of the loan or the maximum amount available under the program, whichever is less, the amount of the insurance required should be reduced by the value of the land involved, in cases where the proposed loan clearly exceeds the value of the insurable improvements. However, such a reduction is not required. Private lenders that do not normally appraise land values separately, and that generally require fire insurance for the full amount of the loan, are free to follow the same practice, to the extent otherwise permitted by law, with respect to flood insurance.

(c) If a loan is made while a community is in the Emergency Program and the amount of flood insurance available is insufficient to cover the amount of the loan, the lender has no

obligation to increase the amount of flood insurnce required when the community enters the Regular Program. However, the lender is not precluded from doing so.

4. *Proof of purchase and maintenance of flood insurance.* (a) Lenders shall treat the flood insurance purchase requirement in essentially the same way as the fire insurance requirement they customarily impose. That is, most lenders will require a copy of the Standard Flood Insurance Policy, endorsed to show them as a beneficiary.

(b) At the time of the loan closing, however, unless the lender or the supervisory instrumentality rules otherwise, a copy of the flood insurance policy application, indicating that the full premium has been paid is sufficient evidence of the purchase of flood insurance, since there is normally a 15-day waiting period before the policy is actually issued and the coverage becomes effective. However, once the policy has been issued, a copy of the policy should be obtained and maintained by the lender.

(c) Since the flood insurance policy is an annual policy, lenders will be expected to see that flood insurance is renewed and maintained for the entire duration of the loan. Thus, if the borrower does not renew his policy on time, the lender will have the usual option of renewing it for him or calling the loan. The FIA is equipped to assure that mortgagees receive copies of flood insurance policies and renewal notices. Such notices are normally sent out 45 days, but no less than 30 days, before the expiration date of the policy. In the event the flood insurance coverage is obtained from a source other than the FIA, lenders should require similar notices to permit the lender to renew the policy or call the loan.

(d) Flood insurance is not available for buildings during the course of construction until such building has walls and is roofed, unless building materials are stored in a fully enclosed structure adjacent to the building site, but the amount of flood insurance required by the lender at any given time need not exceed the amount of the lender's total disbursement to date.

(e) Flood insurance is not available for multiple buildings under a single flood insurance policy at the present time. Thus, if a lender makes a commitment for a multiple housing development under a single loan, it will be necessary to obtain an individual flood insurance policy on each individual building covered by the mortgage.

(f) A special disbursement by a private lender after March 2, 1974, to protect its security interest in a real estate loan made at any time, such as a disbursement to pay real estate taxes or a fire insurance premium for a delinquent borrower, does not constitute a new loan or loan modification requiring the purchase of flood insurance if such disbursement is made solely for the purpose of protecting the lender's security interest, and none of the funds go to the borrower.

(g) When a loan is made after March 2, 1974, and is subject to the insurance purchase requirement of the Act and the community in which the property is located loses its eligibility for the sale of flood insurance, flood insurance is no longer available at the time of policy renewal. Such an existing loan does not have to be called in those circumstances, although it cannot be increased, extended, or otherwise modified for the benefit of the borrower after the flood insurance policy lapses.

C. Additional Guidelines for Federal Agencies

1. *When the purchase of flood insurance is required.* (a) The guidelines applicable to private lenders are also generally applicable to Federal agencies. However, the Act imposes more stringent requirements on Federal agencies with respect to new financial assistance to projects that they have previously assisted.

(b) With respect to Federal agencies, the insurance purchase requirement applies to all assisted personal property, except in research and development projects which do not involve insurable items, regardless of whether the agency has provided or is providing any financial assistance with respect to real estate. If at the time of providing the financial assistance for personal property, the agency takes back a mortgage on real estate, flood insurance must be required on the real estate as well.

(c) Similarly, if a Federal agency provides financial assistance for personal property to a borrower that the agency has previously assisted with respect to real estate at the same facility in the same location, then it must require flood insurance on the previously-assisted building as well as on the personal property. The amount of flood insurance required on the building should be based upon its current value, however, and not on the amount of assistance previously provided.

(d) Federal agencies must require flood insurance on all assisted personal property even in cases, such as working capital guarantees, where no funds are disbursed and no security interest is obtained.

2. *Amount of flood insurance required.* (a) The Act imposes two requirements on Federal agencies that are different from those imposed upon private lenders. The first is that flood insurance must be obtained in the amount of project cost (except where a loan is involved), and the second is that land value must be subtracted out of determining project cost. The requirement to subtract out land cost does not apply to agencies that do not lend Federal funds but operate entirely through private lenders.

(b) The term project cost is not defined but is expect to be construed as the agency involved would normally construe it. However, since certain public facilities, such as bridges, dams, water and sewer lines, and underground structures are not insurable under the program, the uninsurable portions of project cost, as well as land cost (or the value allocated to land, where no land acquisition is involved), would normally be subtracted from project cost in determining the amount of flood insurance required. Thus, flood insurance need not be required in excess of the value of the buildings to be insured.

(c) For example, if 90 percent of the cost of a $5 million sewer system consisted of underground lines and underground pumping stations, and the balance of the cost represented aboveground buildings, then flood insurance would be required only on the $500,000 portion of the project that was eligible for insurance. If that portion consisted of only two equally valued buildings, within a community in the Regular Program, then only $200,000 on each building would be required. If the two buildings were valued at $100,000 and $400,000, then $100,000 and $200,000 of insurance, respectively, would be required.

(d) Similarly, if an agency such as the Defense Civil Preparedness Agency (DCPA) provided 50 percent of the cost of constructing an Emergency Operating Center (EOC) in the basement of a new courthouse that was not built with Federal funds, then flood insurance (to the extent available) would be required in an amount equal to 100 percent of the cost of the Center or $200,000, whichever is lesser, regardless of the fact that a local government had provided the remainder of the cost. The amount of flood insurance required would be based not on the total cost of the courthouse, but only on the cost of the portion of the building that constituted DCPA's project. However, agencies can adopt more stringent requirements if they believe the interests of the Government require them to do so.

(e) A number of Federal agencies make grants for projects other than those strictly limited to acquisition or construction of buildings in special flood hazard areas. Such projects might involve the maintenance and operation of a building or research and development. When grants are to be used for the maintenance and operation of buildings, no flood insurance would be required. Where equipment

is purchased in connection with research and grant projects and for the maintenance and operation of buildings (including routine alterations and repairs), the amount of flood insurance required need not exceed the value of the equipment.

(f) Other agencies, such as the Federal Highway Administration or the Environmental Protection Agency, make substantial loans or grants primarily for the construction of facilities other than buildings, such as bridges or water and sewer lines. Where what is essentially an uninsurable facility only incidentally involves insurable construction, such as a small drawbridge station or the aboveground portion of an underground pumping station, flood insurance is required only for insurable items.

3. *Evidence of insurance where a security interest is not retained.* (a) Because Federal agencies are legally responsible for seeing that flood insurance is maintained by recipients of financial assistance for the entire anticipated economic or useful life of the project, it is recommended that they obtain a copy of the flood insurance policy and receive copies of renewal notices in the same manner as a mortgagee, so that they will know whether the requirement they have imposed is actually being carried out by the recipient beyond the first expiration date of the policy. The simplest way to accomplish this purpose is to have the recipient list the Federal agency as a "mortgagee" on his flood insurance application. Notifications on the status of the policy will then be automatic.

(b) However, where circumstances warrant, as in the case of research contracts and grants to public recipients that only incidentally involve construction, the agency may accept a certificate from the recipient formally stating that flood insurance is available at the time the award is made and that the recipient has purchased and will maintain adequate flood insurance for the entire duration of its work under the contract or grant. Individual agency policies may vary in this matter.

D. Acceptance of Private Flood Insurance To Meet Statutory Requirement

It was a primary legislative purpose of the Act not only to make property owners throughout the nation aware of the significance and severity of the flood peril and to assure their purchase of flood insurance where needed, but also to guarantee their adequate protection through a Federally-sponsored and subsidized program, and thereby to reduce the increasing costs of Federal disaster relief expenditures to the nation's taxpayers. Had adequate and assured flood insurance protection been available through the private insurance market, the National Flood Insurance Program would not have been necessary.

These guidelines represent the position of the Federal Insurance Administration with respect to what insurance policies, other than the Standard Flood Insurance Policy, are acceptable in meeting the statutory requirement for insurance established under section 102 of the Flood Disaster Protection Act of 1973. A guideline of this nature is required because that Act mandates the purchase of flood insurance as a precondition for certain assistance for construction and acquisition purposes from Federal agencies, and for most private mortgage loans, in identified special flood hazard areas.

Most persons will be purchasing flood insurance for the first time, and the majority would not have purchased it except for the statutory requirement. It is, therefore, essential that the insurance which the public is required to purchase be reasonable as to price and quality.

Such reasonableness is, of course, built into the Standard Flood Insurance Policy, issued in accordance with the National Flood Insurance Program, originally enacted in 1968. Although flood insurance coverage, many of which are incorporated in package policies covering other perils, are subject to State regulations of insurance, and although in many States the policy forms and rates are approved by the State Insurance Commissioner, these other policies may not necessarily meet the requirements of the National Flood Insurance Program.

Consequently, the following criteria should be met with respect to any flood insurance policy submitted to a lending institution or a Federal agency in purported satisfaction of the insurance purchase requirements of section 102 of the Flood Disaster Protection Act of 1973:

(a)(i) The insurer is licensed to do business in the jurisdiction where the property is located; or

(ii) In the case of non-residential, commercial property insured pursuant to a policy of difference in conditions, multiple peril, all risk, or other blanket coverage, the insurer is recognized, or not disapproved, as a surplus lines insurer in the jurisdiction where the property is located.

(b) The flood insurance policy issued by the insurer includes an endorsement which:

(1) Requires that that the insurer give 30 days written notice of cancellation or non-renewal to the insured with respect to the flood insurance coverage. To be effective, such notice must be mailed to both the insured and the lender or Federal agency and must include information as to the availability of flood insurance coverage under the National Flood Insurance Program; and

(2) Guarantees that the flood insurance coverage, considering both deductibles and exclusions or conditions offered by the insurer is at least as broad as the coverage offered by the Standard Flood Insurance Polciy.

In order to assure that the purposes of the flood insurance legislation are met, all lending institutions and Federal agencies acting in accordance with section 102 of the Flood Disaster Protection Act of 1973 should take the following additional actions when flood insurance, other than the Standard Flood Insurance Policy, is offered in satisfaction of the statutory requirement:

(1) Advise borrowers of the availability of flood insurance coverage under the National Flood Insurance Program so that the borrower can, if he wishes, make an appropriate comparison of the respective premium costs.

(2) Where applicable, satisfy themselves that a mortgagee interest clause similar to that contained in the Standard Flood Insurance Policy is contained in the other insurance policy.

It is the opinion of the Federal Insurance Administration that an insurance policy which meets all of the above criteria meets the insurance purchase requirements of section 102 of the Flood Disaster Protection Act of 1973.

E. List of HUD Regional Offices

Region I—Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont: 15 New Chardon Street, Boston, Mass. 02114, Regional Flood Insurance Staff, 617-223-2616.

Region II—New Jersey, New York, and Puerto Rico: 90 Church Street, Room 801, New York, N.Y. 10007, Regional Flood Insurance Staff, 212-264-4734.

Region III—Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, and West Virginia: Curtis Building, Sixth and Walnut Streets, Philadelphia, Pa. 19106, Regional Flood Insurance Staff, 215-597-9581.

Region IV—Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee: 1371 Peachtree Street NE., Atlanta, Ga. 30309, Regional Flood Insurance Staff, 404-257-2391.

Region V—Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin: 300 South Wacker Drive, Chicago, Ill. 60606, Regional Flood Insurance Staff, 312-353-0757.

Region VI—Arkansas, Louisiana, New Mexico, Oklahoma, and Texas: Earle Cabell Building, 1100 Commerce Street, Dallas, Tex. 75242, Regional Flood Insurance Staff, 214-749-7412.

Region VII—Iowa, Kansas, Missouri, and Nebraska: Federal Office Building, 911 Walnut Street, Kansas City, Mo. 64106, Regional Flood Insurance Staff, 816-374-2161.

Region VIII—Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming: Room 311, 909 17th Street, Denver, Colo. 80202, Regional Flood Insurance Staff, 303-837-5041.

Region IX—Arizona, California, Hawaii, and Nevada: 450 Golden Gate Avenue, P.O. Box 36006, San Francisco, Calif. 94102, Regional Flood Insurance Staff, 415-556-3543.

Region X—Alaska, Idaho, Oregon, and Washington: Arcade Plaza Building, Room 3068, 1321 Second Avenue, Seattle, Wash. 98101, Regional Flood Insurance Staff, 206-442-1026.

Guidelines for the Mandatory Purchase of Flood Insurance are discussed in the Environmental Impact Statement issued by the Department on September 9, 1976, in connection with the Revised Flood Plain Management Regulations of the National Flood Insurance Program.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued at Washington, D.C., February 3, 1978.

PATRICIA ROBERTS HARRIS,
Secretary, Housing and Urban Development.

[FR Doc. 78-4265 Filed 2-16-78; 8:45 am]

FRIDAY, FEBRUARY 17, 1978
PART V

ENVIRONMENTAL PROTECTION AGENCY

POLYCHLORINATED BIPHENYLS (PCBs)

Disposal and Marking

federal register

[6560-01]

Title 40—Protection of Environment

[FRL 838-5]

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER R—TOXIC SUBSTANCES CONTROL ACT

PART 761—POLYCHLORINATED BIPHENYLS (PCB's)

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: These regulations prescribe disposal and marking requirements for polychlorinated biphenyls (PCB's), and are promulgated pursuant to section 6(e)(1) of the Toxic Substances Control Act (Pub. L. 94-469). The intent of these regulations is to protect the environment from further contamination by PCB's resulting from improper handling and disposal of PCB's.

IMPLEMENTATION: Section 6(e)(1) of the Toxic Substances Control Act (Pub. L. 94-469) (hereinafter referred to as TSCA) required the promulgation of rules prescribing marking and disposal requirements for PCB's by July 1, 1977. Due to the delay in proposing these rules and the requirement to conduct adequate rulemaking proceedings, it was necessary to postpone the promulgation of the rules.

EFFECTIVE DATE: April 18, 1978.

FOR FURTHER INFORMATION CONTACT:

David Wagner, Office of Toxic Substances (TS-788), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, 202-426-9000. Joni T. Repasch is the Record and Hearing Clerk for this rulemaking. The official record of rulemaking is located in Room 520 WSME, EPA Headquarters, 401 M Street SW., Washington, D.C. 20460, 202-755-1188. The record is available for viewing and copying from 9 a.m. to 4 p.m., Monday through Friday excluding holidays.

SUPPLEMENTARY INFORMATION: On May 24, 1977, the Office of Toxic Substances of the Environmental Protection Agency published in the FEDERAL REGISTER (42 FR 26564-26577) a proposed rule which prescribed disposal and marking requirements for PCB's. The informal hearings required under section 6(c)(2) and 6(e)(4) of TSCA for this proposed rule were held on June 24, 27, 28, and 29, 1977. Over 100 comments and reply comments were received during the rulemaking.

The preamble to the proposed regulations included a description of the legal authority, background of the PCB problem, definitions, description of persons affected by the regulation, a discussion of the methods of disposal and marking, and a summary of the economic consequences of the proposed regulation. The description of the legal authority, background of the PCB problem, and summary of economic consequences are incorporated here by reference.

A support document titled, "PCB Marking and Disposal Regulations, Final Action—Support Document," is available from Ms. Joni T. Repasch at the address stated above. The support document contains an evaluation of the comments received in the rulemaking proceeding and explains in detail the reasons for the EPA's modifications to the proposed regulation. Reprints of this FEDERAL REGISTER Notice are available from the Industry Assistance Office, 800-424-9065.

DISCUSSION OF THE RULE

DEFINITIONS

"Disposal" is defined very broadly to include any action that may be related to the ultimate disposition of a PCB substance, article, or mixture. An accidental or intentional release of PCB chemical substances or mixtures to the environment, including spills, is considered to be an act of disposal. Under this regulation, proper disposal of material contaminated as a result of a spill must be performed. This regulation does not preempt the provisions of the Federal Water Pollution Control Act (FWPCA) (Pub. L. 92-500) governing spills.

The definitions of "Administrator", "Agency", "chemical substance", "distribute in commerce", "manufacture", and "process" are identical to the definitions of these terms in TSCA.

"PCB chemical substances" are defined as chemical substances containing only a biphenyl molecule that has been chlorinated to varying degrees. This definition is the basic building block for defining other forms of PCB's. Any modification other than chlorination to a biphenyl molecule is sufficient to remove it from classification as a PCB.

"PCB mixtures" are defined to mean mixtures, including sludges from municipal and other sewage treatment facilities, that contain 0.05 percent or greater of PCB chemical substances (on a dry weight basis). The definition for PCB mixtures covers mixtures found in both commercial applications and waste materials.

"PCB article" includes any manufactured item, other than PCB containers, whose surfaces have been in direct contact with PCB chemical substances or PCB mixtures. The definition includes commercial products, such as electrical capacitors and transformers, that have liquid PCB chemical substances and PCB mixtures contained within their internal mechanisms as a functioning part of the electrical device. Other examples of PCB articles are piping, pumps, radiators, and other components of heat transfer systems, as well as electric motors, that use PCB chemical substances and PCB mixtures as an internal coolant.

"PCB container" means any package, can, bottle, bag, barrel, drum, tank, box, or other device used to contain PCB chemical substances, PCB mixtures, or leaking PCB articles. The definition is meant to cover containers where PCB chemical substances or PCB mixtures are, or have been, in direct contact with their internal or external surfaces but where the PCB chemical substances or mixtures are, or were not performing any function.

"PCB article container" means any package, can, bottle, bag, barrel, drum, tank, box, or other device used to contain PCB articles. This includes containers used to package or protect PCB articles that are intact and not releasing PCB chemical substances or mixtures. Thus, PCB article containers do not have PCB substances or mixtures on their surfaces, and, when a PCB article is removed from a PCB article container, the container no longer requires special marking, handling, or disposal. Buildings are not considered to be article containers.

"PCB equipment" means manufactured items, other than a PCB container or a PCB article container, that contain PCB articles. PCB equipment would contain PCB articles only because the articles were performing a function in the equipment. Examples of PCB equipment are television sets, microwave ovens, high intensity light fixtures, and fluorescent light fixtures that use a PCB article such as a capacitor containing PCB's.

The phrases "PCB" and "PCBs" mean one or more of the following: "PCB chemical substance", "PCB mixture", "PCB article", "PCB container", and "PCB equipment." This definition is included to provide an abbreviated reference to all forms of PCBs.

"Transport vehicles" includes motor vehicles or railcars used to transport cargo. If this cargo contains PCB's as defined in these regulations, then special marking requirements apply. However, the marking or labeling requirements apply only when PCBs are being carried on a transport vehicle as cargo.

DISPOSAL AND MARKING REQUIREMENTS

The regulation applies to all persons who manufacture, process, distribute in commerce, use, or dispose of PCBs, including local, State, and Federal governments.

High temperature incineration is required for all PCB liquids, PCBs drained from transformers, and large

high and low voltage capacitors. Transformers drained of PCBs, dredge spoils, municipal sewage sludge, and materials contaminated by spills are required to be disposed of either in an incinerator or in a chemical waste landfill. Large high and low voltage capacitors may be placed in a chemical waste landfill until January 1, 1980.

Storage of PCB's and PCB articles prior to disposal is allowed under specified conditions in special facilities that provide a margin of safety against release of PCBs to the environment. Capacitors can be stored next to, but are not required to be inside of, a special storage facility until January 1, 1983. This latter type of storage is allowed in order to reduce storage facility costs and, at the same time, have contained storage facility immediately available should a leak develop.

Small capacitors in home appliances and fluorescent light ballasts may be disposed of as municipal solid waste. However, small capacitors owned by capacitor and equipment manufacturers and acquired in the course of such manufacturing, which are being disposed of, must be incinerated or landfilled just like large capacitors.

All containers of PCB liquids, not-in-service PCB transformers, and not-in-service large high voltage capacitors are required to be labeled by July 1, 1978. All transport vehicles carrying PCBs are required to be labeled beginning October 1, 1978. All in-service transformers, in-service large high voltage capacitors, and new equipment with small PCB capacitors are required to be labeled by January 1, 1979.

All newly manufactured non-PCB large low voltage capacitors, small alternating current capacitors, and fluorescent light ballasts are to be labeled, "No PCBs" beginning July 1, 1978.

PCB incineration, chemical waste landfill, and storage facility specifications are provided. The EPA Regional Administrators must approve all incinerator and chemical waste landfill sites before they can be used for PCB disposal and can waive any particular condition imposed on an incinerator or landfill if they find that waiving that condition will not result in the incinerator or landfill posing any additional risk of injury to health or the environment. They may also waive the incineration method totally in favor of another method that provides PCB destruction of equal efficiency.

In addition, EPA Regional Administrators may waive incineration requirements for PCB articles other than capacitors on the basis of technological infeasibility, and instead allow disposal of such articles in a chemical waste landfill.

EPA Regional Administrators are granted authority to approve types of disposal other than incineration or landfill for dredge spoils and municipal sewage treatment sludges upon a showing that incineration or landfilling is not feasible and that an alternate method will provide adequate protection to health and the environment.

Decontamination procedures, marking formats, and recordkeeping and monitoring procedures are provided in the form of Annexes attached to these regulations.

RULE MODIFICATIONS

An explanation of EPA's modifications to the proposed regulation is set forth below. Only those modifications that resulted in substantive changes to the definitions or requirements are explained.

CHANGES IN § 761.2 DEFINITIONS

Section 761.2(v) of both the proposed rule and the final rule define "PCB mixture" to mean any mixture with 500 parts per million (ppm) of PCB.

The Agency is aware that adverse health and environmental effects can result from exposure to PCB's at levels lower than 500 ppm; however, at this time the Agency is not establishing a level based on health effects or environmental contamination but rather a level at which regulated disposal of most PCB's can be implemented as soon as possible. The 500 ppm PCB concentration was selected in the proposed regulation because it appeared to include those commerical products which are generally called PCB's and those contaminated as the result of the deliberate introduction of PCB's and to exclude other widely used commercial products which may contain lower levels of PCB's as a result of the manufacturing process or exposure to the general environment containing PCB's. The Agency was concerned about inadvertently controlling disposal of mixtures where there was insufficient information about the regulatory impact on commercial products.

In the period between proposal and promulgation, the Agency has obtained more information bearing on the definition of PCB mixture. The impact on commerical products of defining lower levels of contamination as "PCB Mixtures" appears less than first believed. Futhermore, disposal criteria for lower level PCB's such as PCB contaminated dredge spoils, sludges, waste oils, and spill materials appear necessary in order to reduce additional environmental contamination. Since most of this information was not included in the record of the proposed marking and disposal regulations and did not become a significant issue in the informal hearing, the definition of PCB mixture cannot be changed to a lower concentration level until the Agency first proposes the lower concentration definition. As a consequence, the 500 ppm level definition for a PCB mixture, as proposed, is included in this final rulemaking. However, the Agency plans to propose a lower concentration of PCB's, possibly in the range of 50 ppm or below, to define PCB mixture in the forthcoming PCB manufacturing, processing, use and distribution regulations. At the same time, the Agency anticipates that some variations in the disposal requirements will be proposed for PCB's at these lower levels. These proposed regulations will appear shortly in the FEDERAL REGISTER, and informal hearings on all of these proposals will be held simultaneously.

It should be noted that the regulations promulgated today do not preempt more stringent requirements that may be placed in dredging permits and in other regulatory tools employed by EPA in controlling the release of PCB's. In particular, if there is a risk that materials such as dredge spoils or sewage sludge will be deposited in water or where they can be carried into water, stricter controls than specified in these regulations may be appropriate. Water has been the most significant pathway for PCB contamination, and serious environmental damage can be expected to result from the deposit in or near water of material containing PCB's even in low concentrations. This is particularly true for dredge spoils and sewage sludge, given the huge quantities of these materials that may be generated.

EPA Regional Offices making decisions on permits for dredge and fill disposal under section 404 of the Federal Water Pollution Control Act and issuing discharge permits under the FWPCA or dumping permits under the Marine Protection, Research and Sanctuaries Act of 1972 or exercising any other relevant authority, will be expected to take such factors into account and to regulate PCB's at levels below 500 parts per million under that order authority, wherever appropriate.

CHANGES IN § 761.10 DISPOSAL OF PCB'S

A new section 761.10(b)(3) has been added to the final rule to allow the use of chemical waste landfills for disposal of soil and debris contaminated with PCB's as a result of a spill or from placement of PCB's in a disposal site prior to the effective date of these regulations. Under the proposed rules, incineration would have been required. This change was made to permit the use of a more practical disposal method for the large volumes of soil and debris, such as trash, trees, lumber, and other rubbish, that may be involved in a spill clean-up operation or in removal or excavation of materials from an old disposal site,

such as a pit, pond lagoon, dump, or landfill. This provision does not apply to PCB liquids, slurries, industrial sludges, damaged PCB articles, or any production wastes related to PCB processing or manufacturing; such items must be disposed of in accordance with section 761.10(b) (1) or (2).

Section 761.10(c)(1) of the proposed regulation required that all transformers be drained and flushed prior to disposal so that no more than two percent of the dielectric fluid remained, or in other words, that all transformers be drained of 98 percent of their total PCB's. In the final regulation, section 761.10(c)(1) has been modified to require that, prior to disposal, a transformer be drained of all free-flowing liquid, filled with solvent, and drained out after at least 18 hours. A number of hearing witnesses challenged the technical feasibility of the 98 percent draining requirement. In addition, whether anyone could realistically determine that 98 percent of the liquid had been removed was questioned. EPA believes these objections are correct and therefore has modified the requirement.

Section 761.10(c)(2)(iii) of the proposed regulation required that any PCB capacitor which is separated from PCB equipment should be disposed of in an incinerator complying with Annex I, or until July 1, 1979, in a chemical waste landfill complying with Annex II. Numerous comments from industry urged that disposal of all small capacitors without special precautions be allowed indefinitely in view of the practical difficulties involved in their disposal and the relatively small amounts of PCB's contained in each individual capacitor. The three major problems relating to the regulation of small capacitors are (1) the practical difficulties of enforcement, (2) the expense of collecting a large number of small capacitors and concentrating them for disposal and (3) deciding who will pay for the cost of disposal. In view of these problems, EPA has eliminated special disposal requirements for all classes of small capacitors (except those owned by capacitor manufacturers or PCB article manufacturers as a result of manufacturing activities). EPA believes, however, that the problems cited above do not apply to the disposal of capacitors owned by capacitor manufacturers and PCB article manufacturers and has, therefore, retained disposal requirements for such capacitors. This provision only requires incineration of capacitors which the manufacturer has already decided to dispose of in some way, such as capacitors rejected for failure to meet quality control standards.

An estimated 180 million pounds of PCB's are associated with small PCB capacitors currently in use. EPA intends to try, during the next year, to identify viable alternatives for adequate disposal of small capacitors. Initially, alternatives will be sought through public meetings with the disposal industry, the waste collection industry, consumer groups, the public utilities, and other interested parties.

Since provisions for disposal of most small capacitors have been eliminated, requirements relating to their storage prior to disposal are unnecessary. Therefore, section 761.42(c), stipulating storage conditions for small capacitors, has been deleted.

The proposed regulation required incineration of large high voltage and low voltage capacitors after July 1, 1979. This disposal requirement was disputed in the rulemaking. Many commentors favored continued use of chemical waste landfills indefinitely. A properly operated chemical waste landfill is an appropriate type of disposal facility for many hazardous waste materials. However, incineration is the only currently available means of destroying the PCBs and thus ensuring their permanent removal from the environment. Furthermore, based on tests carried out by TRW Systems and Rollins Environmental Services, Inc., and based on the opinions received from several power industry representatives, EPA has concluded that it is technically and economically feasible to incinerate large capacitors. Because there is a likelihood of delay in having sufficient incineration capacity available, storage of large capacitors is permitted until January 1, 1984.

A new § 761.10(b)(3) has been added to the final rule to authorize EPA Regional Administrators to permit disposal of municipal sewage treatment sludge, as well as dredge spoils, by a means other than incineration or chemical waste landfill, provided such disposal does not present an unreasonable risk of injury to health and the environment. Likewise, a new § 761.10(c)(3) has been added to allow Regional Administrators to grant exemptions from the incineration requirements for PCB articles on a case-by-case basis upon a showing that incineration is not technologically feasible. These changes respond to comments that the proposed disposal requirements lacked necessary flexibility and would be impossible to comply with where unusually shaped articles or very large quantities of material contaminated at a low level with PCBs were concerned.

Finally, special disposal requirements for PCB equipment have been eliminated, since they no longer serve any purpose. Because small PCB capacitors are no longer subject to special disposal requirements, there is no need to include special provisions for disposal of equipment containing them, while transformers, large PCB capacitors, and other PCB articles must be removed from the equipment and disposed of separately in any case.

CHANGES IN § 761.20 MARKING

Section 761.20(a)(1) of the proposed regulation required that all PCB articles manufactured after January 1, 1978, be marked at the time of manufacture with the mark M_L as described in Annex V. The final regulation has been modified regarding the specific articles to be marked at the time of manufacture. Section 761.20(a)(1) (ii) and (iii) of the final regulation requires that each PCB large high voltage capacitor and each transformer manufactured after July 1, 1978, be marked at the time of manufacture with the mark M_L as described in Annex V. Other articles, such as small capacitors and large low voltage capacitors, will not have to be marked M_L at the time of manufacture, although large low voltage capacitors will have to be marked at the time of removal from use.

Small capacitors, large low voltage capacitors, and fluorescent light ballasts which do not contain PCBs will be required, under § 761.20(a)(6), to be marked with a label indicating that fact. This provision requires that each large low voltage capacitor, small capacitor, or fluorescent light ballast manufactured during the twenty years between July 1, 1978 and July 1, 1998, which does not contain PCB's be marked "No PCB's". This marking requirement will assist disposers in distinguishing the large numbers of large low voltage capacitors, small alternating current type capacitors, and fluorescent light ballasts currently in use, practically all of which contain PCB's, from like items produced in the future, most of which will not contain PCB's.

In the proposed regulation, § 761.20(a)(2) required that PCB equipment manufactured after January 1, 1978, be marked at the time of manufacture with the mark M_L. The final regulation requires that after July 1, 1978, equipment containing a PCB transformer or a PCB large high voltage capacitor be marked at the time of manufacture with the mark M_L, (see § 761.20(a)(1)(iv)) and that after January 1, 1979, equipment containing PCB small capacitors be marked with the statement, "This equipment contains PCB capacitor(s)" (see § 761.20(a)(4)). This latter marking requirement has been retained despite the elimination of all disposal requirements for such equipment in order to discourage massive stockpiling of PCB articles and incorporation of the items in equipment indefinitely into the future.

The provision regarding marking of PCB equipment in inventory has been modified. Proposed § 761.20(a)(4) re-

quired each PCB article, except small PCB capacitors, contained in PCB equipment in inventory after January 1, 1978, to be marked with the mark M_L before being distributed in commerce. The final regulation provides in § 761.20(a)(1)(iv) that equipment containing a PCB transformer or a PCB large high voltage capacitor must be marked after July 1, 1978, with the mark M_L before distribution in commerce. Equipment in inventory containing large low voltage capacitors as well as other equipment containing PCB articles will not have to be marked with the mark M_L as EPA had proposed.

Note that § 761.20(a)(1) (ii) and (iii) of the final regulation requires that transformers and large high voltage capacitors not included in equipment also be marked before distribution in commerce.

The requirement for marking PCB items removed from use has been modified. Section 761.20(a)(7) of the proposed regulation required that all PCB articles removed from use after January 1, 1978, be marked with the mark M_L or placed in a PCB container marked with the mark M_L, except for small PCB capacitors disposed of as municipal solid waste.

Section 761.20(a)(1) (ii), (iii), (iv), and (v) of the final regulation requires that only transformers, PCB large high and low voltage capacitors, or equipment containing a PCB transformer or large high or large low voltage capacitor when removed from use after July 1, 1978, shall at the time of removal be marked with the mark M_L.

Section 761.20(b)(2) of the proposed regulation has been deleted. This provision required that each PCB large low voltage capacitor and each PCB HID capacitor in use after March 31, 1978, be marked with the mark M_L as soon as the capacitor is available for marking as the result of direct access to the equipment for servicing. The deletion of this provision means that marking of HID capacitors and large low voltage capacitors during normal servicing operations will not be required. Many commenters argued that, where HID capacitors were concerned, this procedure would result in the marking of very few capacitors, would impose a substantial risk of electric shock, and would be much more expensive than the EPA had estimated.

A great many commenters objected to proposed § 761.20(b)(1) as requiring a utility truck to be labelled whenever it carried a few large high voltage capacitors. As explained at the hearing, this is not a correct reading. The intent was to require labelling whenever the truck carries PCB mixtures or chemical substances that are not part of any PCB article or when it carries a transformer. Labelling when capacitors are carried is not required.

With this understanding, the proposed language has been included in the final regulation (see section 761.20(a)(2)).

CHANGES IN § 761.42 STORAGE FOR DISPOSAL

Section 761.42(c)(1) of the proposed regulation, requiring the storage of small capacitors in sound, non-leaking containers within a building, has been deleted. Since provisions for the disposal of small capacitors have been eliminated, requirements relating to storage prior to disposal are unnecessary.

A new § 761.42(c)(1) has been added to the final regulation, to permit non-leaking PCB articles and equipment to be stored in a temporary storage area up to 30 days. Thus, for a period up to thirty days, non-leaking PCB articles, PCB equipment, and PCB containers may be placed in a temporary storage area, instead of in the roofed and diked enclosure with an impermeable floor specified in § 761.42(b) of the final regulation.

A new § 761.42(c)(2) has been added to the final regulation. This subsection provides that until January 1, 1983, non-leaking and structurally undamaged PCB-containing large high voltage capacitors may be stored on pallets next to a storage facility meeting the requirements of Annex III. This section also requires that capacitors so stored be checked weekly. This provision therefore permits an alternative means of storing non-leaking, structurally undamaged PCB large high voltage capacitors to that specified in § 761.42(b).

Section 761.42(c)(2) will permit low-cost storage of any temporary excess of PCB large capacitors caused by delays in constructing incineration facilities. A number of utility industry spokesmen had argued that the proposed requirement was costly and overly burdensome for storing structurally undamaged large capacitors. The agency agrees.

SECTION 761.44 CHANGES IN MARKING FORMATS

The marking format required under § 761.44 of the proposed regulation provided that the U.S. Coast Guard National Response Center be contacted in the case of an accident or spill. The label format, as provided in § 761.44 of the final regulation, has been revised to include a space for the identification of the owner of the transformers or capacitors and the owner's telephone number, in addition to the Coast Guard emergency number. Thus, in the event of a spill, the owner of the equipment as well as the U.S. Coast Guard could be contacted. Numerous utilities and other industries suggested that their own telephone numbers be placed on the marking label as the contact in case of a spill. EPA believes such an addition to the label would improve responses to spills, and hence that suggestion has been accepted. In addition, the color, yellow, has been included as an alternate background for the label formats because in certain industrial situations, that color is more visible than the white background provided for.

SECTION 761.45 CHANGES IN RECORDS AND MONITORING

Section 761.45(a) was modified in order to make clear that records on the disposition of PCBs will have to be maintained by each owner or operator of a facility containing at least 45 kilograms of PCB chemical substance or PCB mixture, or one or more PCB transformers or 50 or more large capacitors. Proposed § 761.45(a) did not include the words "at least," nor did it cover facilities containing PCB transformers.

Some comments by PCB users suggested that the proposed regulation would have required them to determine the exact amount of PCBs in each of their capacitors and transformers, and to keep an exact record of where each capacitor and transformer was located. In fact, the regulation, both as proposed and promulgated, only requires such records for "facilities" which contain transformers or large number of PCB capacitors, and does not require any estimate of the amounts of PCBs in capacitors.

STATE EXEMPTIONS

Officials of the State of Michigan appeared at the legislative hearing and urged that any Federal action leave intact their State program regarding the marking and disposal of PCB's. Oregon, Indiana, Minnesota and Wisconsin have also enacted similar State requirements affecting the marking and disposal of PCB's.

EPA has determined that under TSCA, State requirements regarding disposal of PCB's are completely exempt from Federal preemption insofar as they prescribed what may be done within the State boundaries, but that a State may not require PCB's generated within its boundaries to be disposed of in a method less restrictive than prescribed by these regulations. In other words, a State may forbid the burning of PCB articles within its boundaries, but it may not require disposal in a chemical waste landfill where EPA's rules require the articles to be incinerated, outside the State if necessary. (This determination is expanded upon in the Support Document.) However, because State marking requirements are specifically preempted under section 18(a) of TSCA, except when EPA grants an exemption under section 18(b) by rule, EPA has determined that such requirements

are preempted by implication for purposes of section 6(e) and these regulations.

ECONOMIC CONSEQUENCES OF RULE MODIFICATIONS

The major economic impact of EPA's modifications to the proposed rule will apply to utilities owning and using PCB-containing large high voltage capacitors, owners and users of high intensity discharge (HID) lighting capacitors, PCB small capacitors, PCB large low voltage capacitors, or equipment containing such capacitors, manufactures of equipment containing PCB articles (such as microwave oven manufacturers), and manufacturers of large low voltage capacitors, small capacitors and fluorescent light ballasts.

Utilities should incur approximately $1.4 million less storage costs per year than previously estimated by EPA as a result of the addition of § 761.42(c)(2) of Annex III "Storage for Disposal". That paragraph provides for the storage of non-leaking and structurally undamaged PCB-containing large high voltage capacitors on pallets next to an approved storage facility. This provision substantially reduces both capital costs (incurred primarily in 1978) and the loss in economic revenues associated with the use of storage space.

Under the final rule, owners and users of HID capacitors will no longer be required to label such articles when they are removed from equipment. The proposed rule was further modified to eliminate any disposal requirement for HID capacitors. These changes to the proposed rule should reduce the impact on the affected owners by at least $3.8 million in 1978, with the annual "savings" decreasing approximately seven percent each year thereafter.

The addition of § 761.20(a)(6) to the final rule, which provides that at the time of manufacture each large low voltage capacitor, fluorescent light ballast, and small capacitor that does not contain PCB's be marked with a label stating, "No PCB," should result in increased total manufacturing costs of approximately $25,000 per year for each of 20 years.

Manufactures of PCB equipment should save approximately $100,000 in 1978 because EPA has moved back the effective date for marking PCB equipment from January 1, 1978 to January 1, 1979. This estimate is based on the assumption that no PCB capacitors will be maufactured after the first half of 1978.

The modification to § 761.10(c)(1), which now permits the user of a transformer who intends to dispose of it in a chemical waste landfill simply to drain the PCB mixture, fill it with solvent, and then redrain (instead of being required to achieve 98 percent removal of PCB's), will result in some undetermined cost savings associated with testing transformers.

Finally, the modification to § 761.10(c)(3), which permits PCB articles other than transformers and capacitors to be disposed of in chemical waste landfills until adequate and technically feasible incineration is available (compared to the incineration-only requirement in the proposed rule), should reduce disposal costs for a number of users of such articles. EPA is not able to quantify this reduction in disposal costs.

In summary, as a result of the modifications to the proposed rule, annual operating costs associated with compliance with the final rule will be reduced by at least $5.2 million from the $58.3 million associated with the proposed rule to $53.1 million for the twelve months ending May 30, 1979, and to $55.8 million for the following twelve months. Annual operating costs should decrease by seven percent each year thereafter.

OFFICIAL RECORD OF RULEMAKING—PCB MARKING AND DISPOSAL REGULATIONS

Section 19(a)(3) of TSCA defines the term "rulemaking record" for purposes of judicial review as follows:

> For purposes of this section, the term "rulemaking record" means:
>
> (A) The rule being reviewed under this section;
>
> (B) in the case of a rule under section 4(a), the finding required by such section, in the case of a rule under section 5(b)(4), the finding required by such section, in the case of a rule under section 6(a) the finding required by section 5(f) or 6(a), as the case may be, in the case of a rule under section 6(a), the statement required by section 6(c)(1), and in the case of a rule under section 6(e), the findings required by paragraph (2)(B) or (3)(B) of such section, as the case may be;
>
> (C) any transcript required to be made of oral presentations made in proceedings for the promulgation of such rule;
>
> (D) any written submission of interested parties respecting the promulgation of such rule; and
>
> (E) any other information which the Administrator considers to be relevant to such rule and which the Administrator identified, on or before the date of the promulgation of such rule, in a notice published in the FEDERAL REGISTER.

In accordance with the requirements of section 19(a)(3)(E) quoted above, EPA is publishing the following list of documents constituting the record of this rulemaking. Public comments, the transcript of the rulemaking hearing, and submissions made at the rulemaking hearing and in connection with it are exempt from FEDERAL REGISTER listing under section 19(a)(3) and have not been listed. However, a full listing of these materials is available on request from the Record and Hearing Clerk.

DOCUMENTS

Proposed Regulation:

USEPA-OTS. Polychlorinated Biphenyls (PCBs) Marking and Disposal Requirements: Notice of Proposed Rulemaking.

Twelve Working drafts dated January 21, 1977 through May 17, 1977.

Final FR 26564, May 24, 1977. "Polychlorinated Biphenyls (PCBs), Toxic Substance Control."

Support Documents:

USEPA-OTS. PCB Marking and Disposal Regulations—Support Document—Toxic Substance Control—Polychlorinated Biphenyls (PCBs). Undated.

USEPA-OTS. Microeconomic Impact of the Proposed Marking and Disposal Regulations for PCBs. April 1977. EPA 560/6-77-013. PB 267833 VERSAR INC.

Publicly Announced Meetings or Hearings:

USEPA. Stenographic Transcript of Hearings in the Matter of Polychlorinated Biphenyls: Panel Discussion. December 20, 1976. Washington, D.C. together with documents submitted, agenda, and FEDERAL REGISTER Notices.

USEPA. Stenographic Transcript of Hearings in the Matter of: PCBs Public Hearing. Use, Labeling and Disposal of Polychlorinated Biphenyls. January 24, 1977. Washington, D.C. together with documents submitted, agenda, and FEDERAL REGISTER Notices.

Other Information:

FEDERAL REGISTER NOTICES

39 FR 10603-10604, March 21, 1974. "Proposed Toxic Pollutant Effluent Standards; Correction."

39 FR 8325, March 5, 1974. "Public Hearings on Effluent Standards for Toxic Pollutants."

41 FR 14134-14136, April 1, 1976. "Polychlorinated biphenyl Containing Wastes: Disposal Procedures. PTV."

41 FR 23225, June 9, 1976. "Chloralkylene Fluids: Opinion Regarding Use as Dielectric Fluids."

42 FR 6532-6555, February 2, 1977. "Toxic Pollutant Effluent Standards: Standards for Polychlorinated Biphenyls (PCBs); Final Decision."

41 FR 53692, December 8, 1976. "Polychlorinated biphenyls (PCBs): Panel Discussion."

41 FR 23225, June 9, 1976. "Polydimethylsiloxane: Opinion Regarding Use as Coolants for Use in Transformers."

42 FR 17487-17494, April 1, 1977. "Unavoidable Contaminants in Food and Packaging Materials: Polychlorinated Biphenyls (PCBs)." USDHEW 21 CFR Part 109. Docket No. 77-0080.

42 FR 36484-36485, July 15, 1977. "Polychlorinated Biphenyls (PCBs), Deadline for Reply Comment Period."

NON-FEDERAL REGISTER EPA STATEMENTS

USEPA. Polychlorinated Biphenyls (PCBs) Regulation Schedule for Regulation.

USEPA. Polychlorinated Biphenyls (PCBs) Regulation Outline. PCB Interagency Meeting. February 10, 1977.

USEPA. Toxic Substance Section. Polychlorinated Biphenyls (PCBs) Regulation. March 1977.

REPORTS

ANSI. American National Standard Guidelines for Handling and Disposal of Capacitor- and Transformer-Grade Askarels Containing Polychlorinated Biphenyls. ANSI—C107. 1-1974.

ANSI. Letter Ballot on Approval of Revision of ANSI Publication C-107. 1-1974—Guidlines for Handling and Disposal of Capacitor and Transformer—Grade A Askarels Containing Polychlorinated Biphenyls. Final Draft. September 24, 1976.

Department of the Environment, U.K. Waste Management Paper No. 6. Polychlorinated Biphenyl (PCB) Wastes. A Technical Memorandum on Reclamation, Treatment & Disposal Including a Code of Practice. London, England.

Dow Chemical Co. "Dow's New Capacitor Fluid—A Case Study in Product Stewardship." In: ASTM Symposium on Aquatic Toxicology, Memphis, Tenn. Oct. 25-26, 1976.

Environment Canada. Petroleum and Industrial Organic Chemicals, Water Pollution Control Directorate, Abatement and Compliance Branch. Burning Waste Chlorinated Hydrocarbons in a Cement Kiln. Feb. 3, 1977.

Environment Canada, Health and Welfare Canada. Background to the Regulation of Polychlorinated Biphenyls (PCBs) in Canada, A Report of the Task Force on PCB, April 1, 1976, to the Environment Contaminants Committee of Environment Canada and Health and Welfare Canada. Technical Report. 76-1.

Fishbein, Lawrence. "Toxicity of Chlorinated Biphenyls." Annual Reviews of Pharmacology, 14 (1974).

Florida Power and Light Co. Critical Assessment of the Feasibility of Biodegrading Polychlorinated Biphenyls (PCBs) to Non-Toxic Derivatives. Contract RF3392. Texas A&M University.

Florida Power and Light Co. Phase I-Alternative Disposal Processes for Liquids and Solids Contaminated with Polychlorinated Biphenyls. Aug. 12, 1976. Turner, Mason & Solomon, Consulting Engineers.

Florida Power and Light Co. Report on PCB Emissions from Sanford Unit No. 4. May 1976.

Fort Howard Paper Co. Before the Senate Committee on Natural Resources, Assembly Committee on Environmental Quality, Assembly Committee on Natural Resources: In the Matter of Creating Chapter NR 212 of the Wisconsin Administrative Code Related to Effluent Standards for Polychlorinated Biphenyls (PCBs).

General Electric Co. Wastewater Monitoring Program and Evaluation of Control Measures for Polychlorinated Biphenyls (PCBs). Discharges to the Hudson River. Phase I Report. June 1975. Clark, Dietz and Associates, Engineers, Inc.

Hutzinger, O., S. Safe, and Zitko, V. The Chemistry of PCBs. 1974. CRC Press.

Interdepartmental Task Force on PCBs. Polychlorinated Biphenyls and the Environment. May 1972. Washington, D.C.

Kimbrough, Renate D. "Toxicity of Polychlorinated Polycyclic Compounds and Related Chemicals." Critical Reviews in Toxicology, 2(4): 445-498, 1974. CRC Press, Inc.

Mallory & Co., Inc. Economic Impact of a Ban on PCB in Capacitors (With cover letter to Mr. Robert A. Westin, VERSAR Inc., Springfield, Va.). Aug. 10, 1976.

Manufacturing Chemists Association. Guide to Precautionary Labeling of Hazardous Chemicals, Manual L-1. 1970. Seventh Ed.

Manufacturing Chemists Association. Study of the Potential Economic Impacts of the Proposed Toxic Substances Control Act as Illustrated by Senate Bill S. 776. Feb. 20, 1975. June 26, 1975. Foster D. Snell, Inc.

Michigan Dept. of Public Health. Evaluation of Changes of the Level of Polychlorinated Biphenyls (PCBs) in Human Tissue. Final Report. FDA Contract 223-73-2209.

Midwest Governors' Conference, Indianapolis, Indiana, July 25-28, 1976. Policy Statement on Hazardous Toxic Substances.

MIT Center for Policy Alternatives. The Impact of Governmental Restrictions on the Production and Use of Chemicals. A Case Study on Polychlorinated Biphenyls. April 30, 1976. CPA-76-3/b.

Monsanto Co. "Monsanto to Shut Down PCB Unit, Exit Business by Oct. 31, 1977." Monsanto News.

Monsanto Co. Presentation to the Interdepartmental Task Force on PCBs. May 15, 1972. Washington, D.C.

NIOSH. Draft Criteria Document for Polychlorinated Biphenyls. Undated.

National Swedish Environment Protection Board. PCB Conference Sep. 29, 1970. Stockholm. Dec. 1976.

National Marine Fisheries Service. Estimation of Economic Impact of PCBs in Great Lakes Commercial Fish. Dec. 18, 1975.

Organization for Economic Co-operation and Development. Environment Directorate. Polychlorinated Biphenyls, Their Use and Control. 1973. Paris, France.

Panel on Hazardous Trace Substances. "Polychlorinated Biphenyls-Environmental Impact. A Review by the Panel on Hazardous Trace Substance. March 1972." Environment Research, 5(3) Sep. 1972. Academic Press, Inc.

State of Michigan. Enrolled House Bill No. 5619. 78th Legislature Regular Session of 1976.

State of New York, Department of Environmental Conservation. In the Matter of Alleged Violations of Sections 17-0501, 17-0511 and 11-0503 of the Environmental Conservation Law of the State of New York by: General Company, File No. 2833. Trial Memorandum and Memorandum of Law on the Issue of Respondent's Violation of Law. Dec. 24, 1975.

State of New York, Department of Environmental Conservation. Interim opinion and order. In the matter of Alleged Violations of SS17-0501, 17-0511 and 11-0503 of the Environmental Conservation Law of the State of New York by: General Electric Co., File No. 2833, Sep. 8, 1975.

State of New York, Department of Environmental Conservation. Interim opinion and order. In the matter of Alleged Violations of Secs. 17-051, 17-0511 and 11-0503 of the Environmental Conservation Law of the State of New York by: General Electric Co., File No. 2833, Sep. 8, 1975.

State of Wisconsin, Department of Natural Resources. Letter to Dr. A. D. Schmidt, Commissioner of Food and Drugs, Dept. of Health, Education and Welfare: In Reply to: 3210-3. April 28, 1976.

State of Wisconsin, Department of Natural Resources. Notice of Proposed Rulemaking. Discharge of Polychlorinated Biphenyls (PCBs) into the Waters of the State. July 14, 1976.

State of Wisconsin, Department of Natural Resources. Notice of Public Hearings Management of PCB's and Products Containing PCB's. Feb. 9, 1977.

State of Wisconsin, Department of Natural Resources. The PCB Problem in Wisconsin. Undated.

State of Wisconsin, Department of Natural Resources. Statement for Public Hearings on NR 212 Held by the Assembly Environmental Quality Committee with the Senate and Assembly Natural Resources Committee on September 21, 1976 at 1:30 p.m., Madison, Wis.

USDA. Agricultural Research Service, Pesticides Regulation Division. PR Notice 70-25: Notice to Manufacturers, Formulators, Distributors, and Registrants of Economic Poisons. Oct. 29, 1970.

US-DHEW. Final Report of the Subcommittee on Health Effects of Polychlorinated Biphenyls. July 1976.

US-DHEW, Public Health Service. PCB's in Mother's Milk: Transcript of Proceedings.

US-DHEW, FDA. Draft Environmental Impact Statement. Notice of Proposed Rule Making Polychlorinated Biphenyls. May 8, 1972.

US-DHEW, FDA. Final Environmental Impact Statement Rule Making on Polychlorinated Biphenyls. Dec. 18, 1972.

US-DHEW, FDA. In the Matter of Polychlorinated Biphenyls (PCB's) in Paper Food-Packaging Materials. Docket No. 75-N-0013. Prepared Testimony of: (1) Paul E. Trout, (2) Seymour G. Gilbert, (3) J. Rodney Edwards, (4) Paul E. Corneliussen, (5) E. Bruce Brookbank, Jr., (6) Peter L. Oliver, (7) Donald R. Russell, (8) Nathan Mantel, (9) A. T. Luey, (10) Robert Long, (11) Moreno Keplinger, (12) Einar Wulfsberg, (13) Albert C. Kolbye, Jr., M.D., (14) Charles F. Jelinek, Ph. D., (15) Elizabeth J. Campbell, (16) Herbert Blumenthal, Ph. D., (17) James R. Allen, (18) Renate D. Kimbrough, M.D., (19) John R. Wessel. Affidavit of: Edward K. Mullen.

US-DHEW, NIH Meeting on Breast Milk. Transcript of Proceedings. Aug. 27, 1976.

US-DHEW, NIH National Institute of Health Sciences. Environmental Health Perspectives, Environmental Issue No. 1, April 1972.

USEPA. Destruction of Polychlorinated Biphenyls in Sewage Sludge During Incineration. 1976. VERSAR, Inc.

USEPA. Environmental Assessment of PCB's in the Atmosphere. April 1976. Mitre Corp. MTR-7210, Rev. 1.

USEPA. "For Release After 11 a.m. Monday, Dec. 22, 1975: Train Announces Plan to Control PCB's." Environmental News.

USEPA. Memorandum to: All Regional Administrators, From: Assistant Administrator for Enforcement and General Counsel. Subject: Policy on PCB's. Apr. 19, 1972.

USEPA. PCB Sampling and Analyses at Selected Sanitary Landfill Sites. May 25, 1976. SCS Engineers, Consulting Engineers, Inc.

USEPA, Office of Federal Activities. Letter to the Hearing Clerk, US-DHEW: Re:

Draft Environmental Impact Statement and Proposed Rulemaking on Polychlorinated Biphenyls (PCB's) of May 8, 1972.
USEPA, Office of Water Program Operations Study of the Distribution and Fate of Polychlorinated Biphenyls and Benzenes after Spill of Transformer Fluid. Jan. 1976.
USEPA. Predicting Organic Contaminant Removal by Clay Minerals and Waste Materials. Grant No. 804684010, 1st Quarter Report, Oct. 6, 1976 to Jan. 6, 1977.
USEPA-OSWMP. Destroying Chemical Wastes in Commercial Scale Incinerators. Facility Report No. 6 June 77 and Facility Report No. 8 April 77. Rollins Environmental Services.
USEPA-OSWMP. Hazardous Waste Management Facilities in the United States. Current Report on Solid Waste Management. Feb. 1976.
USEPA-OSWMP. Polychlorinated Biphenyls Capacitor Test Burn. (unpublished report).
USEPA-OSWMP. Preliminary Assessment of PCB Disposal in Municipal Landfills and Incinerators. Undated.
USEPA, OTS. Assessment of Wastewater Management Treatment Technology, and Associated Costs for Abatement of PCB's Concentrations in Industrial Effluents: Task II. Feb. 3, 1976. VERSAR, Inc.
USEPA, OWPS. Criteria Document for PCB's. July 1976. Mass. Audubon Society.
USEPA, OTS. Development of a Study Plan for Definition of PCB's Usage, Wastes, and Potential Substitution in the Investment Casting Industry: Task III. Jan. 1976. VERSAR, Inc.
USEPA, OTS. Industry View on the Use of Polychlorinated Biphenyls in Transformers and Capacitors. June 1976.
USEPA, OTS. Microeconomic Impacts of the Proposed Marking and Disposal Regulations for Polychlorinated Biphenyls. April 1977. VERSAR, Inc.
USEPA, OTS. National Conference on Polychlorinated Biphenyls. Nov. 19-21, 1975. March 1976. Chicago, Illinois.
USEPA, OTS. PCB's in the United States: Industrial Use and Environmental Distribution. Feb. 25, 1976. VERSAR, Inc.
USEPA, OTS. Preliminary Assessment of Suspected Carcinogens in Drinking Water: Report to Congress. Dec. 1975.
USEPA, OWPS. Quality Criteria for Water. July 26, 1976.
USEPA. OWPS. Economic Analysis of Proposed Toxic Pollutant Effluent Standards for Polychlorinated Biphenyls: Transformer, Capacitor, and PCB Manufacturers. Oct. 1976.
USEPA. OWPS. PCB's Water Elimination/Reduction Technology and Associated Costs, Manufacturers of Electrical Capacitors and Transformers . . . Addendum to Final Report: Task II. VERSAR, Inc.
USEPA, OWPS. Supplement to Development Document Hazardous Substances Regulations Federal Water Pollution Control Act as Amended 1972. Nov. 1975.
USEPA, Region V. Statement of Karl E. Bremer, USEPA, Region V, Chicago, Ill., Before the Minnesota House Natural Resources and Environmental Protection Committee on House Bill Number 2492 Related to Prohibition of Sale, Manufacture, and Use of Polychlorinated Biphenyls (PCB's). Mar. 4, 1976.
USEPA, Region V. Statement of Karl E. Bremer, USEPA, Region V, Chicago, Ill., Before the House Environment Energy and Natural Resources Committee Related to Legislation Regulating Use of Polychlorinated Biphenyls (PCB's), Springfield, Ill. Apr. 27, 1976.
USEPA, S&AD. Sampling Survey Related to Possible Emission of Polychlorinated Biphenyls (PCB's) from the Incineration of Domestic Refuse. Oct.-Nov. 1975.
USERDA. An Appraisal of Tests and Standards for the Evaluation of Electrical Insulating Fluids. Final Report. May 14, 1976. National Bureau of Standards.
USERDA. Environmental Impact of Polychlorinated Biphenyls. May 1976. Mitre Corp. MTR-7006.
Westinghouse Co. Economic Impact of Alternatives to PCB's. Undated.
Wisconsin Association of Manufacturers and Commerce and the Wisconsin Paper Council. Statement Before the Senate Natural Resources Committee and Assembly Environmental Quality Committee Relating to Proposed NR 212. Sept. 21, 1976.

This Rule is issued under authority of section 6 of the Toxic Substances Control Act, 15 U.S.C. section 2605(e).

Dated: February 8, 1978.

DOUGLAS M. COSTLE,
Administrator.

A new 40 CFR Part 761 is established to read as follows:

Subpart A—General

Sec.
761.1 Applicability.
761.2 Definitions.

Subpart B—Disposal of PCB's

761.10 Disposal requirements.

Subpart C—Marking of PCB's

761.20 Marking requirements.

Subpart D—[Reserved]

Subpart E—List of Annexes

ANNEX NO. I

761.40 Incineration.

ANNEX NO. II

761.41 Chemical waste landfills.

ANNEX NO. III

761.42 Storage for disposal.

ANNEX NO. IV

761.43 Decontamination.

ANNEX NO. V

761.44 Marking formats.

ANNEX NO. VI

761.45 Records and monitoring.

AUTHORITY: Sec. 6, Toxic Substances Control Act, 15 U.S.C. 2605(e).

Subpart A—General

§ 761.1 Applicability.

(a) This subpart establishes procedures, methods, and other requirements for the disposal, storage, and marking of polychlorinated biphenyls (PCB's).

(b) This subpart applies to all persons who manufacture, process, distribute in commerce, use, or dispose of PCB's.

(c) The basic requirements of these regulations are set forth in Subpart B—Disposal of PCB's and Subpart C—Marking of PCB's. Subpart E elaborates on the requirements which are referred to in the disposal and marking sections. Definitions of terms used in all of these sections are found in Subpart A.

(d) Section 15 of the Toxic Substances Control Act (TSCA) states that failure to comply with these regulations is unlawful. Section 16 imposes liability for civil penalties upon any person who violates these regulations. Section 16 also subjects a person to criminal prosecution for a violation which is knowing or willful. In addition, section 17 authorizes Federal district courts to enjoin activities prohibited by these regulations, compel the taking of actions required by these regulations, and to issue orders to seize PCB's processed or distributed in violation of these regulations.

(e) These regulations do not preempt other more stringent Federal statutes and regulations.

§ 761.2 Definitions.

For the purpose of this part:

(a) "Administrator" means the Administrator of the Environmental Protection Agency, or any employee of the Agency to whom the Administrator may either herein or by order delegate his authority to carry out his functions, or any person who shall by operation of law be authorized to carry out such functions.

(b) "Agency" means the United States Environmental Protection Agency.

(c) "Capacitor" means a device for accumulating and holding a charge of electricity, consisting of conducting surfaces separated by a dielectric. Types of capacitors are as follows:

(1) "Small Capacitor" means a capacitor which contains less than 1.36 kg (3 lbs.) of dielectric fluid.

(2) "Large High Voltage Capacitor" means a capacitor which contains 1.36 kg (3 lbs.) or more of dielectric fluid and which operates at 2000 volts a.c. or above.

(3) "Large Low Voltage Capacitor" means a capacitor which contains 1.36 kg (3 lbs.) or more of dielectric fluid and which operates below 2000 volts A.C.

(d) (1) Except as provided in subparagraph (2) of this paragraph, the term "Chemical Substance" means any organic or inorganic substance of a particular molecular identity, including:

(i) Any combination of such substances occurring in whole or part as a result of a chemical reaction or occurring in nature, and

(ii) Any element or uncombined radical.

(2) Such term does not include:

(i) Any mixture,

(ii) Any pesticide (as defined in the Federal Insecticide, Fungicide, and Rodenticide Act) when manufactured, processed, or distributed in commerce for use as a pesticide,

(iii) Tobacco or any tobacco product,

(iv) Any source material, special nuclear material, or byproduct material (as such terms are defined in the Atomic Energy Act of 1954 and regulations issued under such Act),

(v) Any article the sale of which is subject to the tax imposed by section 418 of the Internal Revenue Code of 1954 (determined without regard to any exemptions from such tax provided by section 4182 or 4221 or any other provisions of such Code), and

(vi) Any food, food additive, drug, cosmetic, or device (as such terms are defined in section 201 of the Federal Food, Drug, and Cosmetic Act) when manufactured, processed, or distributed in commerce for use as a food, food additive, drug, cosmetic, or device.

(e) "Chemical Waste Landfill" means a landfill at which protection is provided from PCB's deposited therein against risk of injury to health or the environment by locating, engineering, and operating such landfill as specified in § 761.41 so as to prevent migration of PCB's to land, water, or the atmosphere.

(f) "Commerce" means trade, traffic, transportation, or other commerce

(1) Between a place in a State and any place outside of such State, or

(2) Which affects trade, traffic, transportation, or commerce described in subparagraph (1) of this paragraph.

(g) "Disposal" means to intentionally or accidentally discard, throw away, or otherwise complete or terminate the useful life of an object or substance. Disposal includes actions related to containing, transporting, destroying, degrading, decontaminating, or confining those substances, mixtures, or articles that are being disposed.

(h) "Distribute in Commerce" and "Distribution in Commerce" when used to describe an action taken with respect to a chemical substance or mixture or article containing a substance or mixture means to sell or to transfer the ownership of the substance, mixture, or article in commerce; to introduce or deliver for introduction into commerce, or the introduction or delivery for introduction into commerce of the substance, mixture, or article; or to hold, or the holding of, the substance, mixture, or article after its introduction into commerce.

(i) "Fluorescent Light Ballast" means a device which electrically controls fluorescent light fixtures and which includes a capacitor containing 0.1 kg or less of dielectric.

(j) "Incinerator" means any facility operated for disposal of PCBs by incineration.

(k) "Leak" or "leaking" means any instance in which a PCB article, PCB container, or PCB equipment has any PCB chemical substance or PCB mixture on any portion of its external surface.

(l) "Manufacture" means to produce, manufacture, or import into the customs territory of the United States.

(m) "Mark" means the descriptive name, instructions, cautions, or other information applied to chemical substances, mixtures, articles, containers, equipment, or other objects or activities described in these regulations.

(n) "Marked" means the marking of PCB's, PCB's storage areas and transport vehicles by means of applying a legible mark by painting, fixation of an adhesive label, or other method that meets the requirements of this regulation.

(o) "Mixture" means any combination of two or more chemical substances if the combination does not occur in nature and is not, in whole or in part, the result of a chemical reaction; except that such term does include any combination which occurs, in whole or in part, as a result of a chemical reaction if none of the chemical substances comprising the combination is a new chemical substance and if the combination could have been manufactured for commercial purposes without a chemical reaction at the time the chemical substances comprising the combination were combined.

(p) "Municipal Solid Wastes" means garbage, refuse, sludges, wastes, and other discarded materials resulting from residential and non-industrial operations and activities.

(q) "PCB" and "PCB's" mean one or more of the following: "PCB Chemical Substance", "PCB Mixture", "PCB Article", "PCB Equipment", and "PCB Container."

(r) "PCB Article" means any manufactured item, other than a PCB container, whose surface(s) has been in direct contact with a PCB chemical substance or a PCB mixture, and includes capacitors, transformers, electric motors, pumps, and pipes.

(s) "PCB Article Container" means any package, can, bottle, bag, barrel, drum, tank or other device used to contain PCB articles or PCB equipment, and whose surface(s) has not been in direct contact with a PCB chemical substance or PCB mixture.

(t) "PCB Chemical Substance" means any chemical substance which is limited to the biphenyl molecule which has been chlorinated to varying degrees.

(u) "PCB Container" means any package, can, bottle, bag, barrel, drum, tank, or other device used to contain a PCB chemical substance, PCB mixture, or PCB article, and whose surface(s) has been in direct contact with a PCB chemical substance or PCB mixture.

(v) "PCB Equipment" means any manufactured item, other than a PCB container or a PCB article container, which contains a PCB article or other PCB equipment, and includes microwave ovens, electronic equipment, and fluorescent light ballasts and fixtures.

(w) "PCB Mixture" means any mixture which contains 0.05 percent (on a dry weight basis) or greater of a PCB chemical substance, and any mixture which contains less than 0.05 percent PCB chemical substance because of any dilution of a mixture containing more than 0.05 percent PCB chemical substance. This definition includes, but is not limited to, dielectric fluid and contaminated solvents, oils, waste oils, other chemicals, rags, soil, paints, debris, sludge, slurries, dredge spoils, and materials contaminated as a result of spills.

(x) "Person" means any natural or juridical person including any individual, corporation, partnership, or association, any State or political subdivision thereof, any interstate body and any department, agency, or instrumentality of the Federal government.

(y) "Process" means the preparation or use of a chemical substance or mixture, after its manufacture, for distribution in commence:

(1) In the same form or physical state as, or in a different form or physical state from, that in which it was received by the person so preparing such substance or mixture, or

(2) As part of an article containing the chemical substance or mixture.

(z) "Storage for Disposal" means temporary storage of PCB's that have been designated for disposal.

(aa) "Transport Vehicle" means a motor vehicle or rail car used for the transportation of cargo by any mode. Each cargo-carrying body (e.g., trailer, railroad freight car) is a separate transport vehicle.

Subpart B—Disposal of PCBs

§ 761.10 Disposal requirements.

NOTE.—These regulations do not require removal of PCB's from service and disposal earlier than would normally be the case. However, when PCB's are removed from service and disposed of, disposal must be undertaken in accordance with these regulations. Future regulations will be directed to the manufacture, processing, distribution in commerce, and use of PCB's and may result in some cases in disposal at an earlier date than would otherwise occur.

(a) *PCB chemical substances.* (1) Any PCB chemical substance shall be

disposed of in an incinerator which complies with Annex I.

(2) When storage is desired prior to disposal, a PCB chemical substance shall be stored in accordance with the requirements of Annex III.

(b) *PCB Mixtures.* (1) Except as provided in subparagraphs (2), (3) and (4) of this paragraph, any PCB mixture shall be disposed of in an incinerator which complies with Annex I.

(2) Any non-liquid PCB mixture in the form of contaminated soil, rags, or other debris shall be disposed of

(i) In an incinerator which complies with Annex I, or

(ii) Until January 1, 1980, in a chemical waste landfill which complies with Annex II.

(3) Soil and debris which have been contaminated with PCB's as a result of a spill or as a result of placement of PCB's in a disposal site prior to the publication date of these regulations shall be disposed of

(i) In an incinerator which complies with Annex I, or

(ii) In a chemical waste landfill

(4) All dredge spoils and municipal sewage treatment sludges that are PCB mixtures shall be disposed of

(i) In an incinerator which complies with Annex I, or

(ii) In a chemical waste landfill which complies with Annex II, or

(iii) Upon application, a disposal method to be determined by the Agency's Regional Administrator in the EPA Region in which the PCB mixture is located. Applications for disposal in a manner other than prescribed in (i) or (ii) above must be made in writing to the Regional Administrator. The application must contain information that disposal in an incinerator or chemical waste landfill is not reasonable and appropriate, based on technical, environmental or economic considerations, and information that the alternate disposal method will provide adequate protection to health and the environment. The Regional Administrator may request other information he or she believes to be necessary for evaluation of the alternate disposal method(s). Any approvals by the Regional Administrator shall be in writing and may contain any appropriate limitations on the approved alternate method for disposal. In addition to these regulations, the Regional Administrator shall consider other applicable agency guidelines, criteria, and regulations to ensure that the discharges of dredged material and sludges which can be defined as PCB mixtures are adequately controlled to protect the environment from all contaminants contained therein. The person to whom such approval is issued must comply with all limitations contained in the approval.

(5) When storage is desired prior to disposal, a PCB mixture shall be stored in a facility which complies with Annex III.

(c) *PCB Articles*—(1) *PCB Transformers.* Any PCB transformers shall be disposed of in accordance with either of the following:

(i) in an incinerator which complies with Annex I, or

(ii) in a chemical waste landfill which complies with Annex II: *Provided,* the transformer is first drained of all free flowing liquid, filled with solvent, and allowed to stand for at least 18 hours, and then drained thoroughly. PCB chemical substances and PCB mixtures which are removed shall be disposed of in accordance with paragraphs (a) and (b) of this section.

NOTE.—Solvents may include kerosene, xylene, toluene and other solvents in which PCB's are readily soluble. Precautionary measures should be taken, however, that the solvent flushing procedure is conducted in accordance with applicable safety and health standards as required by Federal or State regulations.

(2) *PCB Capacitors.* (i) The disposal of any capacitor normally used in alternating current circuits shall comply with all requirements of this subpart unless it is known from label information, manufacturer's literature, or chemical analysis that the capacitor does not contain PCB chemical substances or PCB mixtures.

(ii) Any person may dispose of small PCB capacitors as municipal solid waste, unless that person is subject to the requirements of subparagraph (iv).

(iii) Any large high or low voltage PCB capacitor owned by any person shall be disposed of in accordance with either of the following:

(A) Disposal in an incinerator which complies with Annex I; or

(B) Until January 1, 1980, disposal in a chemical waste landfill which complies with Annex II.

(iv) Any small PCB capacitor owned by any person who manufactures or at any time manufactured PCB capacitors or PCB equipment and acquired the PCB capacitors in the course of such manufacturing shall be disposed of in accordance with either of the following:

(A) Disposal in an incinerator which complies with Annex I; or (B) Until January 1, 1980, disposal in a chemical waste landfill which complies with Annex II.

(3) Other PCB articles. Any other PCB articles shall be disposed of in an incinerator which complies with Annex I. If there is a question as to the technological feasibility of incinerating any such article, written application requesting disposal in a chemical waste landfill which complies with Annex II may be made to the Agency's Regional Administrator in the EPA Regional Office in which the PCB article is located. Such application must contain information that disposal of such PCB article in such an incinerator would be technologically infeasible. The Regional Administrator may request other information he or she believes to be necessary for evaluation of the application. The Regional Administrator shall determine whether or not chemical waste landfills may be used on the grounds of technological infeasibility of incineration. Such determination shall be made in writing and signed by the Regional Administrator.

Such determination may contain any limitations for disposal or storage of the PCB article which the Regional Administrator deems reasonable and the person to whom such waiver is issued must comply with all limitations contained in such determination.

(4) Storage of PCB articles—except for a PCB article described in subparagraph (2) (ii) of this paragraph, any PCB article shall be stored in accordance with Annex III prior to disposal.

(d) *PCB Containers.* (1) Unless decontaminated in accordance with Annex IV, a PCB container shall be disposed of

(i) In an incinerator which complies with Annex I, or

(ii) In a chemical waste landfill which complies with Annex II. *Provided,* That if the PCB chemical substances or mixtures are in liquid state, the PCB container shall first be drained of liquid and the liquid shall be disposed of as a PCB chemical substance or a PCB mixture.

(2) Prior to disposal, a PCB container shall be stored in a facility which complies with Annex III.

(e) *Spills.* (1) Spills and other uncontrolled discharges of PCB chemical substances or PBC mixtures constitute the disposal of PCB chemical substances or PCB mixtures.

(2) PCB chemical substances and PCB mixtures resulting from spill incidents shall be stored and disposed of in accordance with paragraphs (a) and (b), respectively of this section.

In order to determine if a spill of PCBs has produced at any point in a suspected zone of soil, gravel, sludge, fill, rubble, or other land based substances a contamination level that exceeds 500 parts per million of PCBs, the person who spills PCBs should consult with the appropriate EPA Regional Administrator to obtain information on sampling methods and analytical procedures for determining the contamination levels associated with the spill.

(3) This subsection does not exempt owners or operators responsible for a spill from any actions or liability under other statutory authorities, including section 311 of the Federal Water Pollution Control Act (Pub. L. 92-500) and the Resource Conservation and Recovery Act (94-580).

(f) Any person who is required to incinerate any PBC under this subpart

and who contends that there is available to him a means of destroying PCB's which is as efficient in destroying PCB's as the incineration procedure provided in Annex I, may submit information to the Regional Administrator to support that contention as well as information that such means will not present an unreasonable risk of injury to health or the environment as a result of its operation. On the basis of such information and any other available information, the Regional Administrator may, in his discretion, find that the alternate disposal method will not present an unreasonable risk of injury to health or the environment and approve the use of the alternate method. Any such approval must be stated in writing and may contain such conditions and provisions as the Regional Administrator deems appropriate and the person to whom such waiver is issued must comply with all limitations contained in such determination.

(g) (1) Each operator of a chemical waste landfill, incinerator, or alternative to incineration approved under paragraph (f) shall give the following written notices to the state and local governments within whose jurisdiction the disposal facility is located:

(i) Notice at least thirty days before a facility first is used for disposal of PCBs required by this regulation, and

(ii) At the request of any state or local government, annual notice during the time the facility is used for disposal of PCBs of the quantities and general description of PCBs disposed of during the year. This notice shall be given no more than thirty days after the end of the year covered.

(2) Any person who disposes of PCBs under an exemption from incineration or chemical waste landfilling authorized by paragraph (b)(4)(iii) shall give at least thirty days prior written notice of such disposal to the state and local governments within whose jurisdiction the disposal is to take place.

Subpart C—Marking of PCB's

§ 761.20 Marking requirements.

(a) The following marking requirements shall apply:

(1) Each of the following items in existence on or after July 1, 1978 shall be marked as illustrated in Figure 1 in Annex V—Section 761.44(a): The mark illustrated in Figure 1 is referred to as M_L throughout this subpart.

(i) PCB containers:

(ii) PCB transformers at the time of manufacture, at the time of distribution in commerce if not already labeled, and at the time of removal from use if not already labeled;

(iii) PCB large high voltage capacitors at the time of manufacture, at the time of distribution in commerce if not already labeled, and at the time of removal from use if not already labeled;

(iv) Equipment containing a PCB transformer or a PCB large high voltage capacitor at the time of manufacture, at the time of distribution in commerce if not already labeled, and at the time of removal of the equipment from use if not already labeled.

(v) PCB large low voltage capacitors at the time of removal from use.

(vi) Electric motors using PCB coolants.

(vii) Hydraulic machinery using PCB hydraulic fluid.

(viii) Heat transfer systems (other than transformers) using PCB's.

(ix) PCB article containers containing articles or equipment that must be marked under provisions (i) through (viii) above.

(x) Each storage area used to store PCB's for disposal.

(2) As of October 1, 1978, each transport vehicle loaded with PCB containers with more than 45 kg. (99.4 lbs.) of PCB chemical substances or PCB mixtures in the liquid phase or with one or more PCB transformers shall be marked with M_L as described in Annex V—section 761.44(a).

(3) As of January 1, 1979, the following PCB's shall be marked with mark M_L as described in Annex V—section 761.44(a):

(i) All transformers not marked under paragraph (1) of this section;

(ii) All large high voltage capacitors not marked under paragraph (1) of this section in accordance with one of the following methods:

(A) each individual capacitor is to be marked with mark M_L, or

(B) if one or more PCB large high voltage capacitors are installed in a protected location as on a power pole, or structure, or behind a fence; the pole, structure, or fence is to be marked with mark M_L and a record or procedure identifying the PCB capacitors is to be maintained by the owner or operator at the protected location.

(4) As of January 1, 1979, all PCB equipment containing a small PCB capacitor at the time of manufacture shall be marked with the statement "This equipment contains PCB capacitor(s)". The mark shall be of the same size as the mark M_L.

(5) Where mark M_L is specified but the PCB article or PCB equipment is too small to accommodate the smallest permissible size of mark M_L, mark M_S as described in Annex V—Sec. 761.44(b), may be used instead of Mark M_L.

(6) Each large low voltage capacitor, each small capacitor normally used in alternating current circuits, and each fluorescent light ballast manufactured between July 1, 1978 and July 1, 1998 that does not contain PCB's shall be marked by the manufacturer at the time of manufacture with the statement, "No PCB's". The mark shall be of similar durability and readability as other markings that indicate electrical information, part numbers, or manufacturer's name.

Subpart D—[Reserved]

Subpart E—List of Annexes

ANNEX I

§ 761.40 Incineration.

(a) *Liquid PCB's.* An incinerator used for incinerating PCB chemical substances or liquid PCB mixtures shall be approved by the Agency Regional Administrator pursuant to paragraph (d) of this section. Such incinerator shall meet all of the requirements specified in subparagraph (1) through (9) of this paragraph, unless a waiver from these requirements is obtained pursuant to paragraph (d)(5) of this section. In addition, the incinerator shall meet any other requirements which may be prescribed pursuant to paragraph (d) (4) of this section.

(1) Combustion criteria shall be either of the following:

(i) Maintenance of the introduced liquids for a 2-second dwell time at 1200°C (±100°C) and 3 percent excess oxygen in the stack gas, or

(ii) Maintenance of the introduced liquids for a 1½-second dwell time at 1600°C (±100°C) and 2 percent excess oxygen in the stack gas.

(2) Combustion efficiency shall be at least 99 percent computed as follows:

$$\text{Combustion efficiency} = \frac{Cco_2 - Cco}{Cco_2} \times 100.$$

where

Cco_2 = Concentration of carbon dioxide.
Cco = Concentration of Carbon monoxide.

(3) The rate and quantity of PCB's which are fed to the combustion system shall be measured and recorded at regular intervals of no longer than 15 minutes.

(4) The temperatures of the incineration process shall be continuously measured and recorded. The combustion temperature of the incineration process shall be based on either direct (pyrometer) or indirect (wall thermocouple-pyrometer correlation) temperature readings.

(5) The flow of PCB's to the incinerator shall stop automatically whenever the combustion temperature drops below the temperatures specified in subparagraph (1) of this paragraph.

(6) Monitoring of stack emission products shall be conducted:

(i) When an incinerator is first used for the disposal of PCB's under the provisions of this regulation, and

(ii) When an incinerator is first used for the disposal of PCB's after the in-

cinerator has been modified in a manner which may effect the characteristics of the stack emission products.

(iii) At a minimum such monitoring shall be conducted for the following parameters: (*a*) O_2; (*b*) CO; (*c*) CO_2; (*d*) Oxides of Nitrogen (NO_x); (*e*) Hydrochloric Acid (HCL); (*f*) Total Chlorinated Organic Content (RCL); (*g*) PCB Chemical Substances; (*h*) Total Particulate Matter.

(7) At a minimum, continuous monitoring and recording of combustion products and incineration operations shall be conducted for the following parameters whenever the incinerator is incinerating PCB's: (i) O_2; (ii) CO; (iii) CO_2.

(8) Incinerator operations shall be immediately suspended when any one or more of the following conditions occur:

(i) Failure of monitoring operations specified in subparagraph (7) of this paragraph.

(ii) Failure of the PCB rate and quantity measuring and recording equipment specified in subparagraph (3) of this paragraph, or

(iii) Combustion temperature, dwell time, or excess oxygen fall below those specified in subparagraph (1) of this paragraph.

(9) Water scrubbers shall be used for HCl control during PCB incineration and shall meet any performance requirements specified by the appropriate EPA Regional Administrator. Scrubber effluent shall be monitored and shall comply with applicable effluent or pretreatment standards, and any other State and Federal laws and regulations. An alternate method of HCl control may be used if the alternate method has been approved by the Regional Administrator.

(b) *Non-liquid PCB's.* An incinerator used for incinerating non-liquid PCB mixtures, PCB articles, PCB equipment, or PCB containers shall be approved by the Agency Regional Administrator pursuant to paragraph (d) of this section. Such incinerator shall meet all of the requirements specified in subparagraphs (1) through (3) of this paragraph, unless a waiver from these requirements is obtained pursuant to paragraph (d) (5) of this section. In addition, the incinerator shall meet any other requirements which may be prescribed pursuant to paragraph (d) (4) of this section.

(1) The mass air emissions from the incinerator shall be no greater than 0.001g PCB chemical substances/Kg of PCB chemical substance introduced into the incinerator.

(2) Such incinerator shall comply with the provisions of §§ 761.40(a) (2), (3), (4), (6), (7), (8) (i) and (ii) and (9).

(3) The flow of PCB's to the incinerator shall stop automatically whenever the combustion temperature falls below the temperatures specified in any approvals issued by the Regional Administrator pursuant to paragraph (d) of this section. Incinerator operations shall stop immediately whenever the excess oxygen measurements fall below those specified in any approvals issued by the Regional Administrator pursuant to paragraph (d) of this section.

(c) *Maintenance of data and records.* All data and records required by this section shall be maintained in accordance with Annex VI—§ 761.45, Records and Monitoring.

(d) *Approval of incinerators.* Prior to the incineration of PCBs, the owner or operator of an incinerator shall receive the written approval of the Agency Regional Administrator of the Region in which the incinerator is located. Such approval shall be obtained in the following manner:

(1) *Initial report.* The owner or operator shall submit to the Regional Administrator an initial report which contains:

(i) The location of the incinerator.

(ii) A detailed description of the incinerator including general site plans and design drawings of the incinerator.

(iii) Engineering reports or other information on the anticipated performance of the incinerator.

(iv) Sampling and monitoring equipment and facilities available.

(v) Waste volumes expected to be incinerated.

(vi) Any local, State, or Federal permits or approvals.

(vii) Schedules and plans for complying with the approved requirements of this regulation.

(2) *Trial burn.* (i) Following receipt of the report described in subparagraph (1) of this paragraph, the Regional Administrator shall notify the person who submitted the report whether a trial burn of PCBs must be conducted. The Regional Administrator may require the person who submitted the report described in subparagraph (1) of this paragraph to submit such other information as the Regional Administrator finds to be reasonably necessary to determine the need for a trial burn. Such other information shall be restricted to the types of information required in (1)(i) through (1)(vii) above.

(ii) If the Regional Administrator determines that a trial burn must be held, the person who submitted the report described in subparagraph (1) of this paragraph shall submit to the Regional Administrator a detailed plan for conducting and monitoring the trial burn. At a minimum, the plan must include:

(*a*) Date trial burn is to be conducted.

(*b*) Quantity and type of PCBs to be incinerated.

(*c*) Parameters to be monitored and location of sampling points.

(*d*) Sampling frequency and methods and schedules for sample analyses.

(*e*) Name, address, and qualifications of persons who will review analytical results and other pertinent data and who will perform a technical evaluation of the effectiveness of the trial burn.

(iii) Following receipt of the plan described in subdivision (ii) of this subparagraph, the Regional Administrator will approve the plan, require additions or modifications to the plan, or disapprove the plan. If the plan is disapproved, the Regional Administrator will notify the person who submitted the plan of such disapproval, together with the reasons why it was disapproved. That person may thereafter submit a new plan in accordance with subdivision (ii) of this subparagraph. If the plan is approved (with any additions or modifications which the Regional Administrator may prescribe), the Regional Administrator will notify the person who submitted the plan of such approval. Thereafter the trial burn shall take place at a date and time to be agreed upon between the Regional Administrator and the person who submitted the plan.

(3) *Other information.* In addition to the information contained in the report and plan described in subparagraphs (1) and (2) of this paragraph, the Regional Administrator may require the owner or operator to submit such other information as the Regional Administrator finds to be reasonably necessary to determine whether an incinerator shall be approved.

NOTE.—The Regional Administrator will have available for review and inspection an Agency manual containing information or sampling methods and analytical procedures for the parameters required in § 761.40(a) (3), (4), (6), and (7) plus any other parameters he may determine to be appropriate. Owners or operators are encouraged to review this manual prior to submitting any report required in this Annex.

(4) *Contents of Approval.* (i) Except as provided in subparagraph (5) of this paragraph, the Regional Administrator may not approve an incinerator for the disposal of PCB's unless he finds that the incinerator meets all of the requirements of paragraphs (a) and/or (b) of this section, whichever is applicable.

(ii) In addition to the requirements of paragraphs (a) and/or (b) of this section, the Regional Administrator may include in an approval such other requirements as the Regional Administrator finds are necessary to ensure that operation of the incinerator does not present an unreasonable risk of injury to health or the environment from PCB's. Such requirements may include a fixed period of time for which the approval is valid.

(5) *Waivers.* An owner or operator of the incinerator may submit evidence to the Regional Administrator that operation of the incinerator will not present an unreasonable risk of injury to health or the environment from PCB's, when one or more of the requirements of paragraphs (a) and/or (b) of this section are not met. On the basis of such evidence and any other available information, the Regional Administrator may in his discretion find that any such requirements are not necessary to protect against such risk and may waive such requirements in any approval for that incinerator. Any such finding and waiver must be stated in writing and included as part of the approval.

(6) *Persons Approved.* An approval will designate the persons who own and who are authorized to operate the incinerator, and will apply only to such persons.

(7) *Final Approval.* Approval of an incinerator will be in writing and signed by the Regional Administrator. The approval will state all requirements applicable to that incinerator.

ANNEX II

§ 761.41 Chemical waste landfills.

(a) *General.* A chemical waste landfill used for the disposal of PCB's shall be approved by the Agency Regional Administrator pursuant to paragraph (c) of this section. Such landfill shall meet all of the requirements specified in paragraph (b) of this section, unless a waiver from these requirements is obtained pursuant to paragraph (c)(4) of this section. In addition, the landfill shall meet any other requirements which may be prescribed pursuant to paragraph (c)(3) of this section.

(b) *Technical requirements.* Requirements for chemical waste landfills used for the disposal of PCB's are as follows:

(1) *Soils.* The landfill site shall be located in thick, relatively impermeable formations such as large-area clay pans. Where this is not possible, the soil shall have a high clay and silt content with the following parameters:

(i) In-place soil thickness, 4', or compacted soil liner thickness, 3'.

(ii) Permeability (cm/sec), 01×10^{-7}.

(iii) Percent soil passing No. 200 Sieve, >30.

(iv) Liquid Limit, >30.

(v) Plasticity Index, >15.

(vi) Artificial Liner Thickness, >30 mil.

NOTE.—In the event that an artificial liner is used at a landfill site, special precautions shall be taken to insure that its integrity is maintained and that it is chemically compatible with PCB's. Soil underlining shall be provided as well as a soil cover.

(2) *Hydrology.* The bottom of the landfill shall be substantially above the historical high groundwater table. Floodplains, shorelands, and groundwater recharge areas shall be avoided. There shall be no hydraulic connection between the site and standing or flowing surface water. The site shall have monitoring wells and leachate collection and shall be at least fifty feet from the nearest groundwater.

(3) *Flood protection.* (i) If the landfill site is below the 100-year floodwater elevation, the operator shall provide surface water diversion dikes around the perimeter of the landfill site with a minimum height equal to two feet above the 100-year floodwater elevation.

(ii) If the landfill site is above the 100-year floodwater elevation, the operators shall provide diversion structures capable of diverting all of the surface water runoff from a 24-hour, 25-year storm.

(4) *Topography.* The landfill site shall be located in an area of low to moderate relief to minimize erosion and to help prevent landslides or slumping.

(5) *Monitoring Systems*—(i) *Water Sampling.* (*a*) The ground and surface water from the disposal site area shall be sampled for use as baseline operations.

(*b*) Defined water sources shall be sampled at least monthly when the landfill is being used for disposal operations.

(*c*) Defined water sources shall be sampled indefinitely on a frequency of no less than once every six months after final closure of the disposal area.

(ii) *Groundwater Monitor Wells.* (*a*) If underlying earth materials are homogeneous, impermeable, and uniformly sloping in one direction, only three sampling points shall be necessary. These three points shall be equally spaced on a line through the center of the disposal area and extending from the area of highest water table elevation to the area of the lowest water table elevation on the property.

(*b*) All monitor wells shall be cased and the annular space between the monitor zone (zone of saturation) and the surface shall be completely backfilled or plugged with portland cement to effectively prevent percolation of surface water into the well bore. The well opening at the surface shall have a removable cap to provide access and to prevent entrance of rainfall or stormwater runoff. The well shall be pumped to remove the volume of liquid initially contained in the well before obtaining a sample for analysis. The discharge shall be treated to meet applicable State or Federal discharge standards or recycled to the chemical waste landfill.

(iii) *Water analysis.* As a minimum, all samples shall be analyzed for the following parameters, and all data and records of the sampling and analysis shall be maintained as required in Annex VI. Sampling methods and analytical procedures for these parameters shall be as specified in 40 CFR Part 136 as amended in 41 FR 52779 of December 1, 1976.

(*a*) PCB's.

(*b*) pH.

(*c*) Specific Conductance.

(*d*) Chlorinated Organics.

(6) *Leachate Collection.* A leachate collection monitoring system shall be installed beneath the chemical waste landfill. Leachate collection systems shall be monitored monthly for quantity and quality of leachate produced. The leachate should be either treated to acceptable limits for discharge in accordance with a State or Federal permit or disposed of by another State or Federal approved method. Water analysis shall be as provided in subparagraph (5)(iii) of this paragraph. Acceptable leachate collection monitoring/collection systems shall be one of the following designs unless a waiver is obtained pursuant to paragraph (c)(4) of this section.

(i) *Simple Leachate Collection.* This system consists of a gravity flow drainfield installed under the waste disposal facility liner. This design is recommended for use when semi-solid or leachable solid wastes are placed in a lined pit excavated into a relatively thick, unsaturated, homogeneous layer of low permeability soil.

(ii) *Compound Leachate Collection.* This system consists of a gravity flow drainfield installed under the waste disposal facility liner and above a secondary installed liner. This design is recommended for use when semiliquid or leachable solid wastes are placed in a lined pit excavated into relatively permeable soil.

(iii) *Suction Manometers.* This system consists of a network of porous "stones" connected by hoses/tubing to a vacuum pump. The porous "stones" or suction manometers are installed along the sides and under the bottom of the waste disposal facility liner. This type of system works best when installed in relatively permeable unsaturated soil immediately adjacent to the disposal facility's bottom and/or sides.

(7) *Chemical Waste Landfill Operations.* (i) PCB's shall be placed in the landfill in a manner that will prevent damage to containers or articles. Other wastes placed in the landfill that are not chemically compatible with PCB's or PCB containers shall be segregated from the PCB's throughout the waste handling and disposal process.

(ii) An operations plan shall be developed and submitted to the Regional Administrator for approval as required in paragraph (c) of this section. This plan shall include detailed explanations of the procedures to be used for

recordkeeping, excavation and backfilling, waste segregation burial coordinates, vehicle and equipment movement, use of roadways, leachate collection systems, sampling and monitoring procedures, monitoring wells, and security measures to protect against vandalism and unauthorized waste placements. EPA guidelines entitled "Thermal Processing and Land Disposal of Solid Waste" (39 FR 29337 of August 14, 1974) are a useful reference in preparation of this plan.

(iii) Records shall be maintained for all PCB disposal operations and shall include the three dimensional burial coordinates for PCB's. Additional records shall be developed and maintained as provided in Annex VI.

(8) *Supporting Facilities.* (i) A six foot woven mesh fence, wall, or similar device shall be provided around the site to prevent unauthorized persons and animals from entering.

(ii) Roads shall be maintained to and on the site which are adequate to operate and maintain the site without causing safety or nuisance problems or hazardous conditions.

(iii) The site shall be operated and maintained in a manner to prevent safety problems or hazardous conditions resulting from spilled liquids and windblown materials.

(c) *Approval of chemical waste landfills.* Prior to the disposal of any PCB's in a chemical waste landfill, the owner or operator of the landfill shall receive written approval of the Agency Regional Administrator of the Region in which the landfill is located. Such approval shall be obtained in the following manner:

(1) *Initial Report.* The owner or operator shall submit to the Regional Administrator an initial report which contains:

(i) The location of the landfill.

(ii) A detailed description of the landfill including general site plans and design drawings.

(iii) An engineering report describing the manner in which the landfill complies with the requirements for chemical waste landfills in paragraph (b) of this section.

(iv) Sampling and monitoring equipment and facilities available.

(v) Expected waste volumes of PCB's.

(vi) General description of waste materials other than PCB's that are expected to be disposed of in the landfill.

(vii) Landfill operations plan as required in paragraph (b) of this section.

(viii) Any local, State, or Federal permits or approvals.

(ix) Any schedules or plans for complying with the approval requirements of these regulations.

(2) *Other Information.* In addition to the information contained in the report described in subparagraph (1) of this section, the Regional Administrator may require the owner or operator to submit such other information as the Regional Administrator finds to be reasonably necessary to determine whether a chemical waste landfill should be approved. Such other information shall be restricted to the types of information required in (1)(i) through (1)(ix) above.

(3) *Contents of Approval.* (i) Except as provided in subparagraph (4) of this paragraph the Regional Administrator may not approve a chemical waste landfill for the disposal of PCB's unless he finds that the landfill meets all of the requirements of subparagraph (6) of this paragraph.

(ii) In addition to the requirements of paragraph (b) of this section, the Regional Administrator may include in an approval such other requirements as the Regional Administrator finds are necessary to ensure that operation of the chemical waste landfill does not present an unreasonable risk of injury to health or the environment from PCB's. Such requirements may include a fixed period of time for which the approval is valid.

Such requirements may also include a stipulation that the operator of the chemical waste landfill report to the Regional Administrator any instance of detection of PCB's through any of the monitoring requirements of this section.

(4) *Waivers.* An owner or operator of a chemical waste landfill may submit evidence to the Regional Administrator that operation of the landfill will not present an unreasonable risk of injury to health or the environment from PCB's, when one or more of the requirements of paragraph (b) of this section are not met. On the basis of such evidence and any other available information, the Regional Administrator may in his discretion find that any such requirements are not necessary to protect against such risk and may waive such requirements in any approval for that landfill. Such finding and waiver will be stated in writing and included as part of the approval.

(5) *Persons Approved.* Any approval will designate the persons who own and who are authorized to operate the chemical waste landfill, and will apply only to such persons.

(6) *Final Approval.* Approval of a chemical waste landfill will be in writing and will be signed by the Regional Administrator. The approval will state all requirements applicable to that landfill.

ANNEX III

§ 761.42 Storage for disposal.

(a) Any PCB article or PCB container stored for disposal before January 1, 1983, shall be removed from storage and disposed of as required by this Part before January 1, 1984. Any PCB article or PCB container stored for disposal after January 1, 1983, shall be removed from storage and disposed of as required by this Part within one year from the date when it was first placed into storage.

(b) Except as provided in paragraph (c) of this section, after July 1, 1978, owners or operators of any facilities used for the storage of PCB's designated for disposal shall comply with the following requirements:

(1) Such facilities shall have:

(i) An adequate roof and walls to prevent rain water from reaching the stored PCBs.

(ii) An adequate floor which has continuous curbing with a minimum six inch high curb. Such floor and curbing must provide a containment volume equal to at least two times the internal volume of the largest PCB article or PCB container stored therein or 25 percent of the total internal volume of all PCB equipment or containers stored therein, whichever is greater.

(iii) No drain valves, floor drains, expansion joints, sewer lines, or other openings that would permit liquids to flow from the curbed area.

(iv) Floors and curbing constructed of continuous smooth and impervious materials such as Portland cement concrete or steel to prevent or minimize penetration of PCB chemical substances or mixtures.

(v) No storage facility shall be located at a site which is below the 100-year flood water elevation.

(c)(1) Non-leaking PCB articles and equipment may be stored temporarily in an area that does not comply with the requirements of paragraph (b) for up to thirty days from the date of removal from service.

(2) Storage of non-leaking and structurally undamaged PCB large high voltage capacitors on pallets next to a storage facility meeting the requirements of paragraph (b) shall be permitted until January 1, 1983. Such storage will be permitted only when the storage facility meeting the requirements of paragraph (b) has immediately available unfilled storage space equal to 10 percent of the volume of capacitors stored outside the facility. These capacitors shall be checked for leaks weekly.

(3) Any storage area subject to the requirements of paragraph (b) or subparagraph (1) of this section shall be marked as required in Subpart C—section 761.20(a)(6).

(4) No item of movable equipment used for handling PCBs in the storage facilities and which actually comes in contact with PCB chemical substances or PCB mixtures shall be removed from the storage facility area unless it has been decontaminated as specified in annex IV.

(5) All PCB containers and articles in storage shall be checked for leaks at

least once every 30 days. All such leaking containers and articles and their contents shall be transferred immediately to properly marked non-leaking containers. Any spilled or leaked materials shall be immediately cleaned up using sorbents or other adequate means, and the cleaned materials and residues shall be disposed of in accordance with Subpart B—section 761.10(b).

(6) Any PCB container used for the storage of liquid PCB chemical substances or liquid PCB mixtures shall comply with the specifications of the Department of Transportation (DOT), 40 CFR 173.346, revised December 31, 1976. For 55 gallon drums, an 18 gauge steel or heavier and 2-bung head shall be used. For 5 gallon drums, 24 gauge steel or heavier shall be used. They must also meet DOT Specification 17E. Any PCB container used for the storage of non-liquid PCB mixtures, PCB articles, or PCB equipment shall meet the requirements of the DOT Specifications 5, 5B, or 17C with a removable head.

(7) PCB articles and PCB containers shall be dated when they are placed in storage under paragraph (b) or subparagraphs (c)(1) or (c)(2). The storage shall be managed so that the PCB articles and PCB containers can be located by the date they entered storage.

(8) Owners or operators of storage facilities shall establish and maintain records as provided in Annex VI.

ANNEX IV

§ 761.43 Decontamination.

(a) Any PCB container to be decontaminated shall be decontaminated by flushing of the internal surfaces of the container three times with a solvent containing less than 0.05 percent PCB chemical substance in which the solubility of PCB's is five percent or more by weight. Each rinse shall use a volume of the normal diluent equal to approximately ten percent of the PCB container's capacity. The solvent may be reused for decontamination until it contains 0.5 percent PCB chemical substance. The solvent shall then be disposed of as a PCB mixture, in accordance with § 761.10(b). Materials used in decontamination procedures will be disposed of in accordance with the provisions of § 761.10(b)(2).

(b) Movable equipment used in storage areas shall be decontaminated by swabbing surfaces that have contacted PCB chemical substances or PCB mixtures with a solvent meeting the criteria of paragraph (a) of this section.

NOTE.—Precautionary measures should be taken that the solvent meets safety and health standards as required by Federal regulations.

ANNEX V

§ 761.44 Marking formats

The following formats shall be used for marking:

(a) Large PCB Mark—M_L—Mark M_L shall be as shown in Figure 1, letters and striping on a white or yellow background and shall be sufficiently durable to equal or exceed the life (including storage for disposal) of the equipment or container. The size of the mark shall be at least 15.25 cm (6 inches) on each side. If the PCB equipment is too small to accommodate this size, the mark may be reduced in size proportionately down to a minimum of 5 cm (2 inches) on each side.

(b) Small PCB Mark—M_S—Mark M_S shall be as shown in Figure 2, letters and striping on a white or yellow background, and shall be sufficiently durable to equal or exceed the life (including storage for disposal) of the equipment or container. The mark shall be a rectangle 2.5 by 5 cm (1 inch by 2 inches). If the PCB equipment is too small to accommodate this size, the mark may be reduced in size proportionately down to a minimum of 1 by 2 cm (.4 by .8 inches).

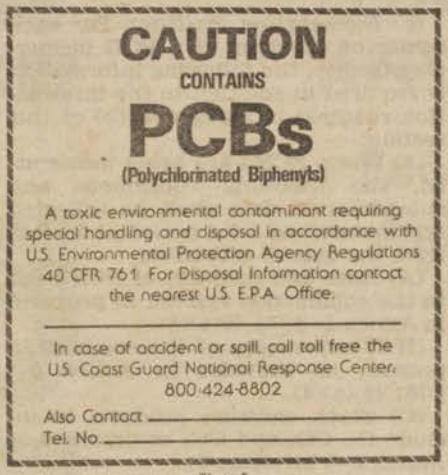

Figure 1

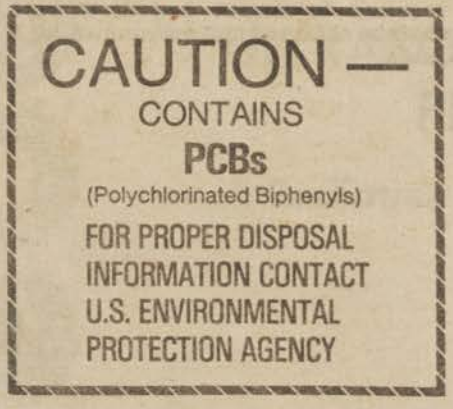

Figure 2

ANNEX VI

§ 761.45 Records and monitoring.

(a) PCB's in service or projected for disposal. Beginning July 2, 1978, each owner or operator of a facility containing at least 45 kilograms (99.4 pounds) of PCB chemical substances or PCB mixtures contained in a PCB container or PCB containers, or one or more PCB transformers, or 50 or more PCB large high or low voltage capacitors shall develop and maintain records on the disposition of PCB's. These records shall form the basis of an annual document prepared for each facility by July 1 covering the previous calendar year. Owners or operators with more than one facility which contains PCB's in the quantities described above may maintain the records and documents at a single location, provided the identity of this location is available at each facility containing PCB's that is normally manned for 8 hours a day. The records and documents shall be maintained for at least five years after the facility ceases containing PCBs in the prescribed quantities. The following information for each facility shall be included in the annual document:

(1) The dates when PCB's are removed from service, are placed into storage for disposal, and are placed into transport for disposal. The quantities of such PCB's shall be indicated using the following breakdown:

(i) Total weight in kilograms of any PCB chemical substances or PCB mixtures in PCB containers, including the identification of container contents, such as liquids, and capacitors.

(ii) Total number of PCB transformers and total weight in kilograms of any PCB chemical substances and PCB mixtures contained in the transformers.

(iii) Total number of PCB large high or low voltage capacitors.

(2) For PCB's removed from service, the location of the initial disposal or storage facility and the name of the owner or operator of the facility.

(3) Total quantities of PCB's remaining in service at the end of the calendar year using the following breakdown:

(i) Total weight in kilograms of any PCB chemical substances and PCB mixtures in PCB containers, including the identification of container contents such as liquids and capacitors.

(ii) Total number of PCB transformers and total weight in kilograms of any PCB chemical substances and PCB mixtures contained in the transformers;

(iii) Total number of PCB large high or low voltage capacitors.

(b) *Disposal and storage facilities.* Beginning July 1, 1979, each owner or operator of a facility used for the storage or disposal of PCB's shall by July

1 of each year prepare and maintain a document which specifies the manner in which PCB's were handled at the facility during the previous calendar year. Such document shall be retained at each facility for at least 5 years after the facility is no longer used for the storage or disposal of PCB's, except that in the case of chemical waste landfills such documents shall be maintained at least 20 years after the chemical waste landfill is no longer used for the disposal of PCB's. Such documents shall be available at the facility for inspection by authorized representatives of the Environmental Protection Agency. If the facility ceases to be used for PCB storage or disposal, the owner or operator of such facility shall promptly notify the Agency Regional Administrator of the region in which the facility is located that the facility has ceased storage or disposal operations and shall specify where the documents required to be maintained by this paragraph shall be located. The following information shall be included in each document:

(1) The date when any PCB's are received by the facility during the previous calendar year for storage or disposal, and the identification of the person and facility from whom such PCB's were received.

(2) The date when any PCB's are disposed of at the disposal facility or transferred to another disposal or storage facility, including the identification of the specific types of PCB chemical substances, PCB mixtures, or PCB articles in containers; PCB transformers; and PCB equipment or PCB articles not in containers which were stored or disposed of.

(3) Total weight in kilograms of any PCB containers and the total weight in kilograms of any PCB chemical substances or PCB mixtures contained in any PCB transformers, received during the calendar year, transferred to other storage or disposal facilities during the calendar year, and remaining on the disposal or storage facility site at the end of the calendar year, respectively, including, where applicable, the identification of PCB container contents such as liquids, capacitors, etc. When PCB containers or PCB chemical substances or PCB mixtures contained in a transformer are transferred to other storage or disposal facilities, the identification of the facility to which such PCB's were transferred shall be included.

(4) Total number of any PCB articles or PCB equipment, not in PCB containers, received during the calendar year, transferred to other storage or disposal facilities during the calendar year, and remaining on the facility site at the end of the calendar year, respectively, including the identification of the specific types of PCB articles and PCB equipment received, transferred, or remaining on the facility site. When PCB articles and PCB equipment are transferred to other storage or disposal facilities, the identification of the facility to which such PCB articles and PCB equipment were transferred must be included.

NOTE.—Any requirements for weights in kilograms of PCBs may be calculated values if the internal volume of containers and transformers is known and included in the reports, together with any assumptions on the density of the PCB chemical substances or PCB mixtures contained in the containers or transformers.

(c) *Incineration facilities.* For each owner or operator of a PCB incinerator facility, the following information is required in addition to the information required in paragraph (b) of this section:

(1) When PCB's are being incinerated, the following continuous and short-interval data shall be collected and maintained for a period of 5 years from the date of collection:

(A) Rate and quantity of PCB's fed to the combustion system, as provided in Annex I—§ 761.40(a)(3).

(B) Temperature of the combustion process, as provided in Annex I—§ 761.40 (a)(4).

(C) Stack emission products to include O_2, CO, and CO_2 as provided in Annex I—§ 761.40(a)(7).

(2) When PCBs are being incinerated, data and records resulting from the monitoring of stack emissions as required in Annex I—§ 761.40(d)(2), shall be collected and maintained for 5 years.

(3) Total weight in kilograms of any solid residues generated by the incineration of PCB's during the calendar year, the total weight in kilograms of any solid residues disposed of by such facility in chemical waste landfills, and the total weight in kilograms of any solid residues remaining on the facility site shall be retained for 5 years.

(4) When PCBs are being incinerated, additional periodic data shall be collected and maintained as specified by the Regional Administrator pursuant to Annex I—§ 761.40(d)(4).

(5) A document shall be prepared on any suspension of the operation of any incinerator by the owner or operator thereof, as required in Annex I—§ 761.40(a)(3). The document shall, at a minimum, include the date and time of the suspension and an explanation of the circumstances causing the suspension of operation. The document shall be sent to the appropriate Regional Administrator within 30 days of any such suspension.

(d) Retention of Special Records by Storage and Disposal Facilities. In addition to the information required to be maintained by paragraphs (b) and (c) of this section, each owner or operator of a PCB storage or disposal facility shall collect and maintain for the time period required in paragraph (c) of this section the following data:

(1) All documents, correspondence, and data provided to the owner or operator by any State or local government agency that pertain to the storage or disposal of PCBs at such facility.

(2) All documents, correspondence, and data provided by the owner or operator of such facility to any State or local government agency that pertain to the storage or disposal of PCBs at such facility.

(3) Any applications and related correspondence sent by the owner or operator of such facility to any local, State, or Federal authorities in regard to waste water discharge permits, solid waste permits, building permits, or other permits or authorizations, such as those required by Annex I—§ 761.40(d) and Annex II-§ 61.41(c).

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federal register

FRIDAY, FEBRUARY 17, 1978

PART VI

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

ULTRASONIC THERAPY PRODUCTS

Radiation Safety Performance Standard

[4110-03]

Title 21—Food and Drugs

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

[Docket No. 76N-0034]

PART 1050—PERFORMANCE STANDARDS FOR SONIC, INFRASONIC, AND ULTRASONIC RADIATION-EMITTING PRODUCTS

Ultrasonic Therapy Products

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This rule prescribes a radiation safety performance standard for ultrasonic therapy products for use in physical therapy. The standard applies to any device intended to generate and emit ultrasonic radiation for therapeutic purposes at frequencies above 16 kilohertz and to generators or applicators designed or specifically designated for use in such devices. The standard will require ultrasonic therapy equipment to be capable of delivering a prescribed amount of ultrasonic energy to the patient and will assure that sufficient information on beam characteristics is supplied to allow medical personnel to make informed judgments regarding the application of ultrasound energy.

EFFECTIVE DATE: February 17, 1979.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of June 14, 1976 (41 FR 23973), the Commissioner of Food and Drugs proposed to establish a radiation safety performance standard for ultrasonic therapy and surgery products because he recognized a need for a regulatory standard for such equipment to protect the public health and safety. Interested persons had until August 13, 1976, to file written comments on the proposal.

The agency received 13 comments on the proposal—six from government agencies (one foreign), three from health care organizations, two from manufacturers, one from a consumer, and one from a practitioner/user. Six comments generally supported the proposed standard; seven comments indicated neither approval nor disapproval, but suggested changes or additions to the regulation. A summary of the significant comments and the Commissioner's conclusions are as follows:

1. One comment asked that the standard require inspection of equipment currently in use.

Inspections of equipment would normally be part of the compliance program for an established performance standard. The Commissioner notes that the Radiation Control for Health and Safety Act of 1968 (Pub. L. 90-602) does not authorize application of a performance standard to equipment manufactured before the effective date of the standard, and it would be inappropriate to include such a requirement. But he advises that manufacturers of currently marketed ultrasonic therapy products must have submitted detailed reports on their products to the Bureau of Radiological Health before the products were introduced into commerce. Also, some laboratory and field checks of equipment have been performed. Products manufactured after October 18, 1968, and found to have defects related to safety of use by reason of emission of electronic product radiation are subject to corrective action programs under the act, including the repurchase, repair, or replacement of such defective products.

2. A comment expressed concern that the standard would control the use of ultrasound therapy equipment and at the same time urged that the output power of such devices be correctly indicated to the user.

The Commissioner notes that the standard in no way places restrictions on the use of ultrasound therapy devices and that § 1050.10(c)(1) requires such devices to be equipped with a means to indicate the ultrasonic power within a specified precision. Therefore, no change in the standard is needed.

3. Two comments asked that information on coupling media and their effect on equipment performance be required under § 1050.10(f)(2).

The Commissioner believes that coupling media (fluid used between applicator and tissue to facilitate transmission of ultrasonic energy) have little effect on ultrasound attenuation or beam patterns; and, further, that there is little difference between different coupling media with regard to these parameters. Therefore, it is presently not justified to specifically require information on coupling media in the standard. However, the Commissioner emphasizes that if the radiation safety or dose delivery of a particular ultrasonic device were critically dependent on the choice of coupling medium, then the provisions of § 1050.10(f)(2)(i) would require such information to be supplied by the manufacturer.

4. One reviewer believed that the definition of "effective radiating surface" in § 1050.10(b)(11) is unnecessary because it is only used in the definition of "effective radiating area" in § 1050.10(b)(10). The comment also asserted that the reason for the 5 millimeter (mm) distance in § 1050.10(b)(11) is not clear. Because "effective radiating surface" is used in several definitions other than § 1050.10(b)(10), i.e., § 1050.10 (b)(1, (b)(7), and (b)(13), § 1050.10(b)(11) is considered appropriate. The choice of 5 mm distance from the applicator face as the distance at which to define "effective radiating surface" is consistent with the American Standard Specification for Ultrasonic Therapeutic Equipment of the American National Standards Institute (reference Z24.18-1956) and is considered reasonable. The Commissioner therefore rejects these comments.

5. A suggestion was made to change the definition of "focal length" in § 1050.10(b)(13) to avoid requiring measurements using a surface in space as a reference. The comment urged that the phrase "centroids of the effective radiating surface" be replaced with "center of the face of the transducer."

The Commissioner notes that the term "center of the face of the transducer" has no meaning for nonsymmetric surfaces and therefore is not accepting the revised definition. The current definition accounts for all possible transducer shapes.

6. One comment said that in § 1050.10(b)(19), in the definition of "pressure amplitude," the term $P_1(t)$ should be $p_1(t)$. The Commissioner agrees with the change and also is changing $P_2(t)$ to $p_2(t)$ in the definition.

7. One comment suggested that the international system of units (SI units) be used in the standard and that in particular, the SI unit for intensity, watts per square meter (Wm^{-2}), should be used rather than watts per square centimeter (Wcm^{-2}).

The Commissioner believes that while use of SI units would be desirable, it is necessary to deviate from that system in situations where a non-SI unit is commonly used in other related standards, common test instruments, and in manufacturing practice. Therefore, no changes are made. The Commissioner further notes that the unit Wcm^{-2} is consistent with SI units because a unit for intensity is not included in the international system of units. Although the SI unit for length is meters (m), it is acceptable to use a submultiple such as centimeters (cm).

8. One comment asked that the demarcation between modulated and continuous waveforms in § 1050.10(b)(7) be at a peak-to-average ratio of 1.25 rather than 1.05 so that the U.S. standard is compatible with that of the International Electrotechnical Commission (IEC).

The Commissioner is aware of evidence indicating that pulsed (modulat-

ed) ultrasound may be capable of producing biological effects other than thermal when compared to continuous-wave ultrasound of the same average intensity. A waveform characterized as continuous under the standard need not have any further information supplied with regard to temporal properties. For a waveform to be characterized as continuous it should have minimal amplitude variation with time, and the Commissioner concludes that the peak-to-average ratio of 1.05 should be retained. The Commissioner also notes that the value of 1.05 has been recommended by user groups while justification for the peak-to-average ratio in the IEC standard is not known to FDA. The Commissioner invites further data and information that would show that adopting the IEC provision would not adversely affect the public health.

9. One comment said the measurements of the beam cross-section as defined in § 1050.10(b)(3) and effective radiating area in § 1050.10(b)(10) seem to be impractical and should use the baffle technique in accordance with IEC Publication 150.

The baffle technique is a method where the beam area is determined by measuring the acoustic power passing through successively larger circular apertures and noting that aperture size for which 90 percent of the acoustic power is transmitted. The Commissioner advises that the baffle technique is impractical for the variety of transducer sizes and shapes currently available. There is general agreement within the U.S. delegation to the IEC that the scanning technique in this regulation is preferable to the baffle technique. The suggestion to change the measurement basis is therefore not accepted.

10. One comment suggested use of the IEC definition of "maximum intensity." Others asked that the terms "temporal-average," "temporal-maximum," "spatial-average," and "spatial-maximum" be defined.

The Commissioner disagrees that additional definitions are needed. The IEC definition of maximum intensity specifies measurements over a 1 centimeter diameter area, which is inappropriate for smaller transducers. The Commissioner does not believe the term "spatial-average" needs a definition because size of the detector used for determining spatial distribution of the ultrasonic field is specified in § 1050.10(e)(3). There is a generally accepted formal definition for "temporal-average" (IEEE Standard 100-1972 (Institute of Electrical and Electronics Engineers, Inc., 345 East 47th Street, New York, N.Y. 10017), ANSI C42.100-1972 (American National Standards Institute, Inc., 1430 Broadway, New York, N.Y. 10018)), which essentially defines the term as an average over one or more cycles of a periodic waveform. "Spatial-maximum" and "temporal-maximum" are self-explanatory in that they refer respectively to the greatest value over all space and the greatest value over all time.

11. One comment said there does not appear to be any important difference between the definitions of "focal area" and "focal surface" in § 1050.10 (b)(12) and (b)(14).

In accordance with strict mathematical usage, there is a difference between a surface and the area of a surface. Furthermore, the term "focal surface" is needed for the definition of "focal length" in § 1050.10(b)(13). The Commissioner believes that both definitions are needed, and therefore no change is made.

12. A suggestion was made that "ultrasonic frequency" as defined in § 1050.10(b)(23) should be expressed in megahertz (MHz) rather than Hertz (Hz) so that typical numbers used are kept small.

The Commissioner agrees with the suggestion and is changing the definition to allow the units of Hz, MHz, or kilohertz (kHz).

13. One comment stated that because the time average power for modulated waveforms is more important for patient treatment and safety than instantaneous power, the time average power should be used for calculating "ultrasonic power." Thus, the comment urged that § 1050.10(b)(24) require averaging emitted power over one cycle of the modulating waveform rather than over each cycle of the carrier wave. Another comment suggested that devices subject to §1050.10(c)(1)(ii) be required to indicate the temporal-average power and intensity as well as the temporal maximum power and intensity generated by the device because the average quantities are of as much importance in tissue heating as the maximum quantities.

As stated in paragraph 8 above, there is evidence that nonthermal biological effects associated with exposure to modulated ultrasonic radiation may be related to the temporal-maximum acoustic power and intensity of the waveform. Therefore, it is important that these quantities be indicated to the user. Users wanting to determine the time average power can do so by using the ratio of temporal-maximum to temporal-average effective intensity required by § 1050.10(d)(3)(ii) to be stated on the generator label. The Commissioner therefore concludes that no change in the standard is needed.

14. Two comments argued that the definition of an ultrasonic therapy product in § 1050.10(b)(25) should exclude devices with frequencies below 18 or 20 kHz because such devices produce audible radiation and are thus not "ultrasonic."

The Commissioner notes that there is no commonly accepted lower frequency limit for ultrasonic radiation. The lower frequency limit of 16 kHz will be retained in the standard to be consistent with possible future standards for other ultrasonic devices such as cleaners, rodent repellers, alarm systems, and dental devices, some of which operate below 20 kHz.

15. One comment said the 20-percent allowable error in proposed § 1050.10(c)(1)(ii) should apply individually to the errors in the power and intensity ratio rather than to the sum of the errors. In support of this, the comment noted that proposed § 1050.10(c)(1)(i) would permit a maximum error of ± 20 percent for the ultrasonic power of continuous waveforms.

The Commissioner does not accept the suggested change. The maximum allowable error of ±20 percent must be applied to the sum of the errors so that the temporal-average power may be derived from the two quantities with an error not exceeding ±20 percent. This would then be consistent with the maximum allowable error of ±20 percent for the temporal-average power in the case of continuous waveforms.

16. One comment stated that to label ultrasonic generators with the information required in § 1050.10(d)(3)(ii) would require too much space and that the data should only be required in accompanying documents. Similarly, except for frequency and maximum intensity information, the applicator label information required by §1050.10(d)(4)(iii) should only be required in the accompanying documents.

The Commissioner does not agree with the suggestion because such labeling information is necessary for each user of ultrasonic therapy products and this can only be assured if such information appears on the product. Accompanying documents may be misplaced by the user.

The Commissioner also advises that because ultrasonic therapy products are devices under the Federal Food, Drug, and Cosmetic Act, as amended, these products must also comply with the device labeling requirements in 21 CFR Part 801. To clarify this, special reference to Part 801 is added to § 1050.10(d). In cases where the labeling requirements of this regulation cannot be met because of space limitations, the Director of the Bureau of Radiological Health may approve alternate means of labeling (§ 1050.10(d)(5)).

17. One comment said the requirement in proposed §1050.10(e)(2)(iii) of ±10 percent for line voltage variations is too stringent for testing compliance with the error limits of § 1050.10(c)(1). It was noted that IEC Publication 150

allows additional ultrasonic power variations of ±10 percent for line voltage variations of ±5 percent.

The Commissioner believes that because line voltage variations of ±10 percent are not uncommon, the allowable error limits of ±20 percent in ultrasonic power indication should not be exceeded for such variations. Thus, a change in the regulation is not required, but the Commissioner welcomes further data and information that would show that less stringent provisions would not adversely affect the public health.

18. One comment suggested deletion of proposed § 1050.10(e)(3) because the specified detector size (i.e., with dimensions of less than one wave length in water) would often have dimensions of about 1 mm, an impractical size.

The Commissioner rejects the suggestion because detectors with dimensions as small as 0.25 mm are commercially available. This corresponds to an ultrasonic frequency of about 6 MHz. Furthermore, no marketed ultrasonic therapy products now operate above about 1 MHz, which would require a detector size no larger than about 1.5 mm. It is unlikely that products operating above 3 MHz (corresponding to a detector size of approximately 0.75 mm) will be marketed because the attenuation would be too great. It should also be noted that § 1050.10(e)(3) allows for an "equivalent measurement technique" in cases where compliance with the detector size requirement would be impractical.

19. One comment urged that instead of only requiring that the user be informed of the percentage errors in frequency and effective radiating area (§ 1050.10(f)(2)(iii)), maximum allowable errors for these parameters should be specified in § 1050.10(c). The comment noted that the IEC error limits for frequency and effective radiating area are ±5 percent and ±10 percent, respectively.

The Commissioner has insufficient information to justify specific error limits for ultrasonic frequency and effective radiating area. However, for an ultrasonic therapy product to be used properly, the errors in these parameters must be known by the practitioner. The Commissioner believes this will be effectively done via the user information required by § 1050.10(f)(2)(iii). He also advises that the quantities derived from the effective radiating area, such as the temporal-average effective intensity, are subject to error limits in § 1050.10(c)(1). The Commissioner welcomes data and information that would show the need for also specifying frequency and effective radiating area error limits.

20. One comment asked that the standard require manufacturers to supply maintenance manuals containing considerable explanatory information so hospital personnel can provide proper preventive maintenance on the devices. The comment also said FDA should monitor this required information to assure that the testing methods and maintenance scheduling are essential and necessary.

The Commissioner advises that § 1050.10(f)(1) already requires manufacturers to provide a maintenance schedule and instructions for operation, service, and calibration necessary to keep equipment in compliance with the standard. In addition, through its compliance programs, FDA will monitor the required informational material to assure that it is adequate.

21. One comment asked if the tests for compliance with the standard are intended for hospitals using the devices. If so, some of the required measurements, such as for the effective radiating area, would entail a sophisticated measuring capability and might have a significant cost impact.

The Commissioner points out that the compliance tests in § 1050.10(e) are not intended to be routine maintenance procedures. These are tests upon which manufacturers base their certification that a device is in compliance with the standard and which provide the basis for compliance measurements made by FDA. The device must remain in compliance with the standard for its useful life, provided the manufacturer's instructions for operation, service, and calibration are followed.

22. One comment said the large discrepancy between indicated and measured output from ultrasonic therapy products demonstrates the need for a performance standard. However, while admitting that such devices can induce damage to cells and tissues, the respondent alleged there is no evidence that the devices create a health hazard.

The need and rationale for this standard is discussed at length in the preamble to the June 14, 1976 proposal. The Commissioner notes that there have been documented instances of serious patient injury from exposure to ultrasound therapy (Medical World News, September 1964; Journal of the American Podiatry Association, Vol. 50, No. 8, p. 650; ibid, Vol. 51, No. 8, p. 574, copies of which are on file with the Hearing Clerk, FDA). As the comment notes, the need for a standard is justified on the basis of discrepancies between indicated and actual operating parameters. The potential for human injury and the known biological effects of ultrasound are sufficient reasons for development of a performance standard, even if documented cases of patient injury were not available.

23. One comment contained the suggestion that the standard should include a temperature limitation for the transducer face.

The Commissioner is not aware of any evidence that heating of the transducer face has produced actual problems in the use of ultrasonic therapy products. This lack of such evidence, along with the expected problems of technical feasibility of temperature measurements on the transducer face, has led to the rejection of such a requirement at the present time.

24. One comment recommended that a tolerance (e.g., ±5° C) be included with the specified temperature (30° C) of the measurement medium in § 1050.10(e)(2)(ii).

The Commissioner notes that water temperature is not a critical factor for the required measurements. A temperature is specified simply to standardize the procedures. It would be difficult to justify a temperature tolerance limit on the basis of protection of the public health and safety, and the Commissioner advises that he did not intend the stated temperature to represent an exact number. Furthermore, the regulation describes an idealized situation and only requires that an equivalent measurement medium be used. For example, oil at 20° C could be used instead of water at 30° C, provided the measurements were corrected to the idealized situation described in § 1050.10(e)(2)(ii). If it proves necessary, the Bureau of Radiological Health will provide a compliance guide for this standard, describing acceptable measurement techniques.

25. One comment on proposed § 1050.10(f)(2)(ii) said the user information should include at least one measurement of the ultrasonic radiation field along the applicator axis. The comment also said that a more rigorous specification of the number and accuracy of the required measurements should be included.

The Commissioner rejects the suggestions because the types of measurements necessary for an adequate description of the ultrasound field depend on the applicator configuration and thus vary.

26. One comment asked about the purpose of the visual indicator required in § 1050.10(c)(5). The comment said that a nonquantitative indication of electrical energy input to the transducer is not sufficient and that a quantitative indication of acoustic output from the applicator should be required.

The Commissioner advises that the visual indicator in § 1050.10(c)(5) is intended merely to alert the operator that the ultrasonic transducer(s) is energized. Quantitative indications of the power and intensity are required by § 1050.10(c)(1). It should be noted that the means necessary to comply with § 1050.10(c)(1) could be so de-

signed as to also fulfill the requirements of § 1050.10(c)(5).

27. One comment recommended that the standard require that a booklet of condensed operating instructions be affixed to the device.

The Commissioner believes that such a requirement is inappropriate and unnecessary. Manufacturers are required by § 1050.10(f)(2) to supply adequate operating instructions. It would not be prudent to have incomplete instructions affixed to the devices. Furthermore, the likelihood of persons losing or not using the currently required instructions for this type of medical device should be much less than for consumer products such as microwave ovens.

28. One comment questioned the need for the labeling information in § 1050.10(d)(3) concerning the ratio of temporal-maximum effective intensity to the temporal-average effective intensity (peak-to-average ratio). The comment said that most clinical situations do not require determining the relation between peak and average outputs.

The Commissioner believes that the labeling information should not be changed because the peak-to-average ratio is necessary to be able to convert from peak intensity to average intensity when operating in the pulsed mode. The average intensity must be known to be able to determine the tissue-heating effect (see paragraph 13, above).

29. One comment recommended that the description of the ultrasonic radiation field required in § 1050.10(f)(2)(ii) be provided for each applicator rather than for a model line because there can be vast differences between individual applicators of the same model.

The Commissioner has determined that no change is needed in the regulation. As currently worded, the description of the ultrasonic radiation field spatial distribution must be for the specific device with which the applicator is supplied. If there were significant differences between devices of the same model, individualized information would be necessary to comply with § 1050.10(f)(2)(ii).

30. One comment said the proposed warning in § 1050.10(f)(2)(iv) against adjusting nonuser controls is inadequate and misleading. The comment argued that by this warning, the manufacturer is granted exclusive responsibility and authority for nonoperator device adjustment, even though the user, such as a hospital, has qualified resident service personnel.

The intent of the warning is to caution untrained individuals that service controls or adjustments should not be used during normal operation. The Commissioner realizes that not all expertise rests with the manufacturer and advises that he did not intend to grant exclusive authority to perform service to any group. In fact, § 1050.10(f)(1), which requires that servicing information be provided to any person, is intended to make appropriate instructions available to all service personnel, including qualified hospital service personnel.

31. One comment noted that the "periodic" functions mentioned in § 1050.10(b)(19) are actually "quasi-periodic" because they are periodic functions multiplied by two step functions. The comment acknowleged that the distinction is unimportant for ultrasonic products for use in physical therapy, but suggested it may in the future be important for ultrasonic surgery products.

The Commissioner believes that no changes are needed in the regulation because the distinction between periodic and quasi-periodic waveforms for the equipment covered by this standard does not affect safety and health considerations. The need to distinguish between the functions will be considered for any future regulation applicable to ultrasonic surgery products.

32. A comment said the requirement for servicing information in § 1050.10(f)(1) is too vague and suggested that the following technical information should be specifically required: circuit diagrams, parts list, repair and service check lists, recommended preventive maintenance program and schedule, operational tests, block diagram if applicable, and installation manual. The comment also urged that consumer service personnel be specifically identified as persons to whom servicing information is to be made available by manufacturers.

The Commissioner does not agree. The regulation currently requires that adequate instructions be provided specifically including several items similar to those mentioned by the comment, e.g., maintenance schedule and calibration information. If information described in the comment is considered necessary for radiation safety reasons, such information must be provided by the manufacturer to meet the intent of § 1050.10(f)(1). However, the necessary information may vary from product to product, and so it is not practical to exactly specify a complete list of required information. Finally, § 1050.10(f)(1) currently requires that servicing information be made available to all persons upon request.

33. One manufacturer of ultrasonic therapy devices believes that the allowable tolerances for the timer in § 1050.10(c)(2) are too restrictive. The information accompanying the comment describes a 15-minute and 30-minute timer, though only the former is employed in ultrasonic therapy devices known to FDA. The 15-minute timer would not comply with § 1050.10(c)(2) for times less than 7.5 minutes, where its accuracy would be ±45 seconds (the standard requires ±0.5 minute for times less than 5 minutes, ±10 percent for times from 5 to 10 minutes, and ±1 minute for emission times greater than 10 minutes).

The Commissioner believes that the timer accuracy specifications in the proposal are necessary to assure that neither significant overexposures or underexposures occur for short treatment times (less than 7.5 minutes). It should be noted that underexposure may result in unnecessary exposure because the therapeutic effect may not occur with less than the prescribed exposure. The agency understands that short exposure times are being used in fractionated treatment regimens. Furthermore, the accuracy requirements could economically be met by currently available and relatively inexpensive timers.

34. One comment said the ratio of smallest beam cross-section to effective radiating area in the definition of focusing applicator (§ 1050.10(b)(15)) should be 0.95 rather than 0.5, to be consistent with the value of 1.05 for the peak-to-average pressure amplitude ratio in § 1050.10(b)(7). It suggested alternatively that the peak-to-average ratio be taken as 1.25 and the cross section-to-radiating area ratio be taken as 0.75. Those values would be consistent with IEC terminology (see comment 8, above).

The Commissioner does not accept the suggestion because there is no apparent reason why the demarcation between continuous and modulated waveforms should be at the same level as the demarcation between focusing and nonfocusing applicators. The spatial distribution of the ultrasonic field must be provided for all (focusing and nonfocusing) applicators. However, indication of temporal characteristics is required only for modulated waveforms. Therefore, waveforms characterized as continuous must have minimal temporal variations, i.e., peak-to-average amplitude ratio less than or equal to 1.05. However, as also stated in response to comment 8 above, the Commissioner welcomes further data and information that would justify adopting IEC provisions.

35. One manufacturer said the requirement for unique identification of applicators in § 1050.10(d)(4) implies a variability between applicators. Provision should be made for permanently attached applicators and for field replacement where all available applicators are essentially identical. To provide for this, the comment suggested that the phrase "Unless the applicator is permanently attached, or unless all physically interchangeable applicators are identical insofar as the parameters defined in (iii) below are concerned,

* * *" be inserted at the beginning of the introductory sentence of § 1050.10(d)(4).

The Commissioner is not changing the requirement because it is important to have all applicators individually labeled for those situations where different applicators do vary significantly. From a practical standpoint, because applicators are subject to specific performance requirements of this regulation and to the certification requirements of § 1010.2 (21 CFR 1010.2), the labeling in § 1050.10(d)(4) would be important for recall purposes in cases of noncompliance. Further, the Commissioner believes it would be difficult to adequately define the term "permanently attached." Most currently available applicators would probably be considered detachable.

36. One comment said a maintenance schedule as required by § 1050.10 (f)(1) and (f)(2)(i) is not always necessary and should be included in instructions only where necessary.

The Commissioner believes that no change in the regulation is needed. As currently worded, § 1050.10 (f)(1) and (f)(2)(i) refer to "a schedule of maintenance necessary to keep equipment in compliance." Thus instructions for service and for users would not require a maintenance schedule provided the manufacturer could substantiate that no maintenance is necessary to keep the device in compliance with the standard.

37. A manufacturer said the warning in § 1050.10(f)(2)(iv) is undesirable because: (1) Air is a poor conductor of ultrasound so the only danger is through direct contact with the transducer; (2) periosteal pain is a far more sensitive warning than any document; (3) such a warning detracts from the more significant warnings of electric shock, fire, and burn hazards, which are required by FDA and Underwriters Laboratory; (4) the warning is easily misunderstood by laymen, requiring extensive explanation that the "hazardous radiation" does not refer to ionizing radiation (e.g., x-rays) or ultraviolet radiation.

The Commissioner agrees that the term "hazardous radiation" could be misleading and is changing the warning to clarify that the attendant hazards derive from ultrasonic energy. However, he remains convinced the warning is necessary to divert nonservice personnel from changing nonuser controls or adjustments that might result in incorrect patient dose application and/or unintended exposure to the patient or operator.

38. One comment suggested that the applicator label required in § 1050.10(d)(4) should include the serial number(s) of designated generators to clarify to which generators the applicator has been tuned.

The Commissioner believes that requiring a specific generator serial number on an applicator implies that it should only be used with that specific generator even though with proper tuning and recalibration most applicators are interchangeable. He therefore rejects the suggestion.

39. One reviewer recommended that the user information required in § 1050.10(f)(2)(i) include a description of any known procedures that could alter compliance of the product with the standard.

The Commissioner is not changing the regulation because § 1050.10(f)(2)(i) already requires instructions on safe use, safety procedures, and precautions that may be necessary regarding the use of ultrasonic radiation. Also, § 1050.10(f)(2)(iv) requires a warning against possibly hazardous adjustments or procedures.

On his own initiative the Commissioner is changing the wording of § 1050.10(a) on applicability and § 1050.10(b)(25) defining "ultrasonic therapy product," to better reflect the original intent of this standard. The standard is intended to apply to ultrasonic devices used in physical therapy primarily for deep tissue heating. All currently known ultrasonic surgery devices (including those for cataract removal) operate by a mechanical vibratory action and have significantly different characteristics from devices used in physical therapy and so are not included in this regulation. The proposed standard excluded "products designed for use in dentistry," although the intent was to exclude only dental scaling devices. A specific exclusion of ultrasonic dental scalers is not needed because such devices are not used in physical therapy. Ultrasonic devices not covered by this regulation may be the subject of future FDA regulatory action.

The Physical Medicine Device Classification Panel and the American Academy of Physical Medicine and Rehabilitation expressed concerns that requirements be developed to assure that ultrasonic therapy devices provide sufficient power output to achieve therapeutic effectiveness. The commissioner welcomes further comments, suggestions, and supporting information on the need for such requirements. Such requirements, including appropriate indications for use and any necessary restrictions on use, will be considered at a later date in accordance with the priorities and other recommendations made by the appropriate classification panel.

Therefore, under the Public Health Service Act as amended by the Radiation Control for Health and Safety Act of 1968 (sec. 358, 82 Stat. 1177-1179 (42 U.S.C. 263f)) and under authority delegated to him (21 CFR 5.1), the Commissioner amends Chapter I, Subchapter J of Title 21 of the Code of Federal Regulations by adding new Part 1050, to read as follows:

§ 1050.10 Ultrasonic therapy products.

(a) *Applicability.* The provisions of this section are applicable as specified herein to any ultrasonic therapy product for use in physical therapy manufactured on or after February 17, 1979.

(b) *Definitions.* The following definitions apply to words and phrases used in this section:

(1) "Amplitude modulated waveform" means a waveform in which the ratio of the temporal-maximum pressure amplitude spatially averaged over the effective radiating surface to the root-mean-square pressure amplitude spatially averaged over the effective radiating surface is greater than 1.05.

(2) "Applicator" means that portion of a fully assembled ultrasonic therapy product that is designed to emit ultrasonic radiation and which includes one or more ultrasonic transducers and any associated housing.

(3) "Beam cross-section" means the surface in any plane consisting of the points at which the intensity is greater than 5 percent of the spatial-maximum intensity in that plane.

(4) "Beam nonuniformity ratio" means the ratio of the temporal-average spatial-maximum intensity to the temporal-average effective intensity.

(5) "Centroid of a surface" means the point whose coordinates are the mean values of the coordinates of the points of the surface.

(6) "Collimating applicator" means an applicator that does not meet the definition of a focusing applicator as specified in paragraph (b)(15) of this section and for which the ratio of the area of at least one beam cross-section, whose centroid is 12 centimeters from the centroid of the effective radiating surface, to the area of the effective radiating surface is less than two.

(7) "Continuous-wave waveform" means a waveform in which the ratio of the temporal-maximum pressure amplitude spatially averaged over the effective radiating surface to the root-mean-square pressure amplitude spatially averaged over the effective radiating surface is less than or equal to 1.05.

(8) "Diverging applicator" means an applicator that does not meet the definition of a collimating applicator or a focusing applicator as specified in paragraphs (b) (6) and (15) of this section.

(9) "Effective intensity" means the ratio of the ultrasonic power to the focal area for a focusing applicator. For all other applicators, the effective intensity is the ratio of the ultrasonic power to the effective radiating area. Effective intensity is expressed in watts per square centimeter (Wcm^{-2}).

(10) "Effective radiating area" means the area consisting of all points

of the effective radiating surface at which the intensity is 5 percent or more of the maximum intensity at the effective radiating surface, expressed in square centimeters (cm^2).

(11) "Effective radiating surface" means the surface consisting of all points 5 millimeters from the applicator face.

(12) "Focal area" means the area of the focal surface, expressed in square centimeters (cm^2).

(13) "Focal length" means the distance between the centroids of the effective radiating surface and the focal surface, for a focusing applicator, expressed in centimeters (cm).

(14) "Focal surface" means the beam cross-section with the smallest area of a focusing applicator.

(15) "Focusing applicator" means an applicator in which the ratio of the area of the beam cross-section with the smallest area to the effective radiating area is less than one-half.

(16) "Generator" means that portion of a fully assembled ultrasonic therapy product that supplies electrical energy to the applicator. The generator may include, but is not limited to, a power supply, ultrasonic frequency oscillator, service controls, operation controls, and a cabinet to house these components.

(17) "Maximum beam nonuniformity ratio" means the maximum value of the beam nonuniformity ratio characteristic of a model of an ultrasonic therapy product.

(18) "Operation control" means any control used during operation of an ultrasonic therapy product that affects the ultrasonic radiation emitted by the applicator.

(19) "Pressure amplitude" means the instantaneous value of the modulating waveform, and is $p_1(t)$ in the expression for a pressure wave, $p(t)=p_1(t)\,p_2(t)$, where $p(t)$ is the instantaneous pressure, $p_1(t)$ is the modulating envelope, and $p_2(t)$ is the relative amplitude of the carrier wave normalized to a peak height of one. All are periodic functions of time, t, at any point in space. The period of $p_1(t)$ is greater than the period of $p_2(t)$.

(20) "Pulse duration" means a time interval, expressed in seconds, beginning at the first time the pressure amplitude exceeds the minimum pressure amplitude plus 10 percent of the difference between the maximum and minimum pressure amplitudes, and ending at the last time the pressure amplitude returns to this value.

(21) "Pulse repetition rate" means the repetition frequency of the waveform modulating the ultrasonic carrier wave expressed in pulses per second (pps).

(22) "Service control" means any control provided for the purpose of adjustment that is not used during operation and can affect the ultrasonic radiation emitted by the applicator, or can alter the calibration or accuracy of an indicator or operation control.

(23) "Ultrasonic frequency" means the frequency of the ultrasonic radiation carrier wave, expressed in Hertz (Hz), kilohertz (kHz), or megahertz (MHz).

(24) "Ultrasonic power" means the total power emitted in the form of ultrasonic radiation by the applicator averaged over each cycle of the ultrasonic radiation carrier wave, expressed in watts.

(25) "Ultrasonic therapy product" means:

(i) Any device intended to generate and emit ultrasonic radiation for therapeutic purposes at ultrasonic frequencies above 16 kilohertz (kHz); or

(ii) Any generator or applicator designed or specifically designated for use in a device as specified in paragraph (b)(25)(i) of this section.

(26) "Ultrasonic transducer" means a device used to convert electrical energy of ultrasonic frequency into ultrasonic radiation or vice versa.

(c) *Performance requirements.* The requirements of this paragraph are applicable to each ultrasonic therapy product as defined in paragraph (b)(25) of this section when the generator and applicator are designated or intended for use together, or to each generator when the applicator(s) intended for use with the generator does not contain controls that affect the functioning of the generator.

(1) *Ultrasonic power and intensity—*(i) *Continuous-wave waveform operation.* A means shall be incorporated to indicate the magnitudes of the temporal-average ultrasonic power and the temporal-average effective intensity when emission is of continuous-wave waveform. The error in the indication of the temporal-average ultrasonic power shall not exceed ±20 percent for all emissions greater than 10 percent of the maximum emission.

(ii) *Amplitude-modulated waveform operation.* A means shall be incorporated to indicate the magnitudes of the temporal-maximum ultrasonic power and the temporal-maximum effective intensity when the emission is of amplitude-modulated waveform. The sum of the errors in the indications of the temporal-maximum ultrasonic power and the ratio of the temporal-maximum effective intensity to the temporal-average effective intensity specified in paragraph (d)(3)(ii) of this section shall not exceed ±20 percent for all emissions greater than 10 percent of the maximum emission.

(2) *Treatment time.* A means shall be incorporated to enable the duration of emission of ultrasonic radiation for treatment to be preset and such means shall terminate emission at the end of the preset time. Means shall also be incorporated to enable termination of emission at any time. Means shall be incorporated to indicate the magnitude of the duration of emission (expressed in minutes) to within 0.5 minute of the preset duration of emission for settings less than 5 minutes, to within 10 percent of the preset duration of emission for settings of from 5 minutes to 10 minutes, and to within 1 minute of the preset duration of emission for settings greater than 10 minutes.

(3) *Pulse duration and repetition rate.* A means shall be incorporated for indicating the magnitudes of pulse duration and pulse repetition rate of the emitted ultrasonic radiation, if there are operation controls for varying these quantities.

(4) *Ultrasonic frequency.* A means shall be incorporated for indicating the magnitude of the ultrasonic frequency of the emitted ultrasonic radiation, if there is an operation control for varying this quantity.

(5) *Visual indicator.* A means shall be incorporated to provide a clear, distinct, and readily understood visual indicator when and only when electrical energy of appropriate ultrasonic frequency is being applied to the ultrasonic transducer(s).

(d) *Labeling requirements.* In addition to the labeling requirements in Part 801 and the requirements of §§ 1010.2 and 1010.3 of this chapter, each ultrasonic therapy product shall be subject to the applicable labeling requirements of this paragraph.

(1) *Operation controls.* Each operation control shall be clearly labeled identifying the function controlled and, where appropriate, the units of measure of that function. If a separate control and indicator are associated with the same function, then labeling the appropriate units of measure of that function is required for the indicator but not for the control.

(2) *Service controls.* Each service control that is accessible without displacement or removal of any part of the ultrasonic therapy product shall be clearly labeled identifying the function controlled and shall include the phrase "for service adjustment only."

(3) *Generators.* (i) Each generator shall bear a label that states: The brand name, model designation, and unique serial number or other unique identification so that it is individually identifiable; ultrasonic frequency (unless there is an operation control for varying this quantity); and type of waveform (continuous wave or amplitude modulated).

(ii) Generators employing amplitude-modulated waveforms shall also bear a label that provides the following information: Pulse duration and pulse repetition rate (unless there are operation controls for varying these quantities), an illustration of the amplitude-modulated waveform, and the

ratio of the temporal-maximum effective intensity to the temporal-average effective intensity. (If this ratio is a function of any operation control setting, then the range of the ratio shall be specified, and the waveform illustration shall be provided for the maximum value of this ratio.)

(4) *Applicators.* Each applicator shall bear a label that provides the following information:

(i) The brand name, model designation, and unique serial number or other unique identification so the applicator is individually identifiable;

(ii) A designation of the generator(s) for which the applicator is intended; and

(iii) The ultrasonic frequency, effective radiating area, maximum beam nonuniformity ratio, type of applicator (focusing, collimating, diverging), and for a focusing applicator the focal length and focal area.

(5) *Label specifications.* Labels required by this paragraph shall be permanently affixed to or inscribed on the ultrasonic therapy product; they shall be legible and clearly visible. If the size, configuration, or design of the ultrasonic therapy product would preclude compliance with the requirements of this paragraph, the Director, Bureau of Radiological Health, may approve alternate means of providing such label(s).

(e) *Tests for determination of compliance*—(1) *Tests for certification.* Tests on which certification pursuant to § 1010.2 of this chapter is based shall account for all measurement errors and uncertainties. Such tests shall also account for increases in emission and degradation in radiation safety that occur with age.

(2) *Test conditions.* Except as provided in § 1010.13 of this chapter, tests for compliance with each of the applicable requirements of this section shall be made:

(i) For all possible combinations of adjustments of the controls listed in the operation instructions.

(ii) With the ultrasonic radiation emitted into the equivalent of an infinite medium of distilled, degassed water at 30° C for measurements concerning the ultrasonic radiation.

(iii) With line voltage variations in the range of ±10 percent of the rated value specified by the manufacturer.

(3) *Measurement parameters.* Measurements for determination of the spatial distribution of the ultrasonic radiation field shall be made with a detector having dimensions of less than one wavelength in water or an equivalent measurement technique.

(f) *Informational requirements*—(1) *Servicing information.* The manufacturer of an ultrasonic therapy product shall provide or cause to be provided to servicing dealers and distributors, and to others upon request, at a cost not to exceed the cost of preparation and distribution, adequate instructions for operation, service, and calibration, including a description of those controls and procedures that could be used to increase radiation emission levels, and a schedule of maintenance necessary to keep equipment in compliance with this section. The instructions shall include adequate safety precautions that may be necessary regarding ultrasonic radiation exposure.

(2) *User information.* The manufacturer of ultrasonic therapy product shall provide as an integral part of any user instruction or operation manual that is regularly supplied with the product, or, if not so supplied, shall cause to be provided with each ultrasonic therapy product, and to others upon request, at a cost not to exceed the cost of preparation and distribution:

(i) Adequate instructions concerning assembly, operation, safe use, any safety procedures and precautions that may be necessary regarding the use of ultrasonic radiation, and a schedule of maintenance necessary to keep the equipment in compliance with this section. The operation instructions shall include a discussion of all operation controls, and shall describe the effect of each control.

(ii) Adequate description of the spatial distribution of the ultrasonic radiation field and the orientation of the field with respect to the applicator. This will include a textual discussion with diagrams, plots, or photographs representative of the beam pattern. If there is more than one ultrasonic transducer in an applicator and their positions are not fixed relative to each other, then the description must specify the spatial distribution of the ultrasonic radiation field emitted by each ultrasonic transducer and present adequate examples of the combination field of the ultrasonic transducers with regard to safe use. The description of the ultrasonic radiation field shall state that such description applies under conditions specified in paragraph (e)(2)(ii) of this section.

(iii) Adequate description, as appropriate to the product, of the uncertainties in magnitude expressed in terms of percentage error, of the ultrasonic frequency, effective radiating area, and, where applicable, the ratio of the temporal-maximum effective intensity to the temporal-average effective intensity, pulse duration, pulse repetition rate, focal area, and focal length. The errors in indications specified in paragraphs (c)(1) and (c)(2) of this section shall be stated in the instruction manual.

(iv) A listing of controls, adjustments, and procedures for operation and maintenance, including the warning "Caution—use of controls or adjustments or performance of procedures other than those specified herein may result in hazardous exposure to ultrasonic energy."

Effective date: This regulation shall become effective February 17, 1979.

(Sec. 358, 82 Stat. 1177-1179 (21 U.S.C. 263f).)

Dated: February 9, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc. 78-4367 Filed 2-16-78; 8:45 am]

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FRIDAY, FEBRUARY 17, 1978
PART VII

CONSUMER PRODUCT SAFETY COMMISSION

Environmental Protection Agency

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

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INTERAGENCY REGULATORY LIAISON GROUP

Notice of IRLG Work Plans and Public Meetings

[6560-01]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
ENVIRONMENTAL PROTECTION AGENCY
Food and Drug Administration
DEPARTMENT OF LABOR
Occupational Safety and Health Administration
[FRL 852-2]

INTERAGENCY REGULATORY LIAISON GROUP
Notice of IRLG Work Plans and Public Meetings

The U.S. Consumer Product Safety Commission, the U.S. Environmental Protection Agency, the Food and Drug Administration, and the Occupational Safety and Health Administration have agreed to work together as the Interagency Regulatory Liaison Group (IRLG): to improve the public health through sharing of information avoiding duplication of effort and developing consistent regulatory policy. This agreement was announced at a joint press conference on August 2, 1977.

On October 11, 1977, the IRLG published in the FEDERAL REGISTER an Interagency Agreement relating to the Regulation of Toxic and Hazardous Substances (42 FR 54856). To implement this agreement, the IRLG established eight work groups to develop common, consistent, or compatible practices in areas of activity common to the four Agencies: (1) compliance and enforcement, (2) education and communications, (3) epidemiology, (4) information exchange, (5) regulatory development, (6) research planning, (7) risk assessment, and (8) testing standards and guidelines.

Following are the provisional work plans of the eight work groups and the schedule of public meetings to discuss these work plans. These plans outline the optimum course of action as it is perceived at this time; nevertheless, the timing and implementation of various tasks within a plan may require reconsideration as priorities and available resources change. They may be revised as new, significant information is obtained.

COMPLIANCE AND ENFORCEMENT WORK PLAN

INTRODUCTION

The Compliance and Enforcement Work Group believes that there are a number of projects which can be undertaken by the cooperating agencies to increase the effectiveness and efficiency of each agency's compliance program. The group's work plan discusses these projects, defines action items which are component parts of the projects, and provides target dates for completing the action items.

The work plan contains projects which deal with the following subjects:

Enforcement Response to Health and Environmental Emergencies,
Personnel Exchange,
Sharing Expertise,
Coordination of Laboratory Facilities and Equipment,
Cooperative Application of Compliance Sanctions,
Compliance Training,
Coordination of Compliance Monitoring and Enforcement Priorities,
Coordination of Inspectional Resources,
Establishing Common or Compatible Investigational Forms.

The regional offices of the agencies are also submitting work plans. Many of these plans contain activities which closely parallel items in the Compliance and Enforcement Work Plan. For this reason, the work group will have to work closely with the regional offices to eliminate duplication of effort and insure successful implementation of each group's compliance related projects.

ENFORCEMENT RESPONSE TO HEALTH AND ENVIRONMENTAL EMERGENCIES

A. *Description of Coordination Activity*

The rapid growth in the chemical industry in recent years has resulted in a corresponding increase in the quantity of hazardous substances that are being processed, transported, used, and disposed of. This increase in activity involving such chemicals increases the threat of accidental release or deliberate use of such substances in the workplace or the environment and in foods, drugs, and other consumer products, in a manner which is or may become harmful to human health or the environment.

In general, such incidents warrant an emergency response when: (1) they cause actual harm to human health or the environment, (2) they pose a substantial risk of harm to human health or the environment, and (3) an immediate and thorough response to the incident may abate, mitigate, or minimize such harm or risk of harm.

B. *Extent of On-Going Activity*

A formal exchange of staff-level contacts has taken place in the past between officials of EPA, FDA, OSHA, CPSC, and USDA. Personnel and offices on the list were designated to be telephone contacts in emergency situations.

Furthermore, interagency coordination has occurred on an incident-by-incident basis where field-level personnel of cooperating agencies have performed specific functions within their areas of expertise to further a joint emergency response effort.

Finally, as part of the IRLG effort, a number of regional work groups are considering the development of coordinated emergency response systems.

C. *Constraints*

The ability of the participating agencies to adequately coordinate their response to emergency incidents is constrained by: (1) the limits of the agencies' statutory authority to respond to emergencies, or to assert appropriate regulatory control in response to the incident, (2) the nature of the technical support available within each agency, and (3) the absence of adequate plans or procedures to direct the activities of the agencies in incidents which overlap the jurisdiction of more than one agency.

D. *Resolution of Constraints*

The constraints which arise from the limits of each agency's statutory authority may be minimized by close cooperation among the participating agencies. Such coordination will assure that the most appropriate regulatory control will be applied in abating or mitigating an incident, regardless of the limits of the regulatory options of the lead agency, and will assure profitable utilization of technical support resources. By careful planning and by adopting detailed interagency procedures for incident response, the programmatic constraints can be effectively resolved.

E. *Action Items*

The Compliance and Enforcement Work Group will coordinate with the various regional groups to insure that field needs are met in the emergency response system. However, the compliance group believes that the basic structure, organization, and function of the system and policy considerations concerning the system should be addressed and resolved at the headquarters level since the system must be capable of meeting possible national or, at least, multi-regional emergencies.

The following action items will be undertaken on a priority basis by the group:

1. *Identify each agency's current emergency response programs and capabilities.* The group will describe current emergency response programs in view of the different statutory authorities of the agencies, will evaluate consistency between programs (e.g., funding, remedies, level of operation), and will identify coordination needs. *Target date for completion: April 1, 1978.*

2. *Designate interagency contact points for emergency response coordination.* The group will develop and exchange the names, addresses, and telephone numbers of general emergency response coordinators at headquarters and in each region, and will establish procedures for notification and coordination of intelligence and technical support. *Target date for completion: April 1, 1978.*

3. *Establish a plan for interagency notification of an emergency incident involving only one agency.* For this action item, the group will develop a

protocol for notification of other agencies with respect to the timing of such notification, information to be supplied, and other criteria. In addition, the unit will establish a mechanism to provide technical support to the lead agency with respect to incident characterization, hazard/damage assessment, and technical evaluation of abatement, mitigation, clean-up, or disposal alternatives. *Target date for completion: June 1, 1978.*

4. *Implement a procedure for interagency response to emergency incidents which involve more than one agency.* The compliance group will establish common criteria for characterizing emergency incidents, will develop a protocol for notification of other agencies with respect to the timing of such notification, information to be supplied, and other factors, and will establish a mechanism to provide technical support to the lead agency with respect to incident characterization, hazard/damage assessment, and technical evaluation of abatement, mitigation, clean-up, or disposal alternatives. In addition, the group will establish interagency coordination procedures, including the coordination of on-scene visits and inspections, collection and analysis of samples, chain of custody, case preparation, and case prosecution. The group also will establish a procedure to review the total array of regulatory tools and statutory remedies to respond to emergency incidents, and will provide a protocol for follow-up analysis of the interagency emergency response performance, and for identifying actions needed to prevent a similar incident in the future. *Target date for completion: November 1, 1978.*

F. *Responsible for Implementation*

A. E. Conroy II, Environmental Protection Agency.

PERSONNEL EXCHANGE

A. *Description of Coordination Activity*

The work group considers a viable personnel exchange program to be an essential element of a successful interagency working agreement—particularly in the compliance and enforcement area. The exchange program should be functional at both the operational and management levels and in both headquarters and regional offices to insure maximum impact. The exchange of personnel, particularly at the management level, might well prove to be the basic foundation which maintains, continues and possibly extends the cooperative work of the agencies.

Establishing a personnel exchange system will create a mechanism for shifting resources from one agency to another to meet short-term work demands. The system will also generate increasing numbers of personnel who have a basic understanding of how other agencies operate, and will result in a cross-fertilization of new ideas. Developing an awareness of the programs of other agencies and exchanging knowledge cannot help but be useful in meeting the objective of increased operating efficiency in the compliance area.

B. *Extent of Existing Activity*

A number of the regional work groups are considering exchange programs.

C. *Constraints*

Possible constraints to an exchange program include: Reluctance of personnel to move between agencies, failure of unions to accept the exchange program, CSC regulations, and the need for training programs.

D. *Resolution of Constraints*

Early in the process, the agency personnel offices will have to determine if unions, CSC regulations or other legal barriers are real obstacles. Reluctance of personnel to shift from one agency to another can be overcome by making sure that the exchange program involves quality employees who are made to feel that the program is an honor and a reward for outstanding job performance.

The one constraint which may create difficulties is in the area of training needed to prepare for an assignment. It must be determined if the cost of the needed training is reasonable compared to the expected benefits. Naturally, the training needed will vary with the type of exchange position involved.

E. *Action Items*

The work group understands that a personnel exchange system may involve areas other than compliance, and that the basic tasks of establishing the system will be given to the personnel offices of the four agencies. However, the Compliance and Enforcement Work Group wishes to be actively involved in the development and implementation of the system to insure that the program will function smoothly in the compliance area—both in headquarters and the field.

The following action items must be accomplished to implement the personnel exchange system:

1. *Determine if valid obstacles exist, and, if so, whether steps can be taken to remedy the problems.* The agency personnel offices will have to undertake this task. *Target date for completion: April 1, 1978.*

2. *Plan the personnel exchange program.* The personnel offices with assistance from the work group will have to evaluate training which may be a necessary part of an exchange program, coordinate with the agency field offices to insure that both headquarters and field objectives are met, identify positions which are viable candidates for exchange, and formalize the system by developing a written program. *Target date for completion: July 1, 1978.*

3. *Implement the exchange system.* The final step for this project is to implement the system, probably on a pilot basis, for a relatively small number of positions in both headquarters and regional offices. *Target date for implementation: August 1, 1978.*

F. *Responsible for Implementation*

Edwin F. Tinsworth, Consumer Product Safety Commission.

SHARING EXPERTISE

A. *Description of Coordination Activity*

Within each agency those individuals who possess technical and scientific expertise will be identified to provide a basis for an interchange of these individuals between the four agencies. In addition, each agency utilizes staff and outside experts who serve as expert witnesses for litigation purposes. Many of these expert witnesses have the knowledge and background which would make them useful to more than one agency. A system will be developed which will identify individuals who can be of use to the various agencies, and which will provide for a sharing and exchange of available expertise among the agencies.

B. *Extent of Existing Activity*

A limited informal exchange of expertise exists on an *ad hoc* basis.

C. *Constraints*

The only major constraint will be finding available time for interagency use of individuals who possess unique expertise.

D. *Resolution of Constraints*

The spirit of interagency cooperation may help to minimize the problem. In addition, as the value of the exchange potential becomes more apparent, the desire to make the system work will increase.

E. *Action Items*

The IRLG has requested that the Education and Communications Work Group take the lead in identifying common scientific and technical areas in which the four agencies operate, and also in developing a list of agency experts in each of those areas. The Compliance and Enforcement Work Group will work closely with the education group and with the regional groups to insure that the needs of both headquarters and regional compliance programs are met.

In addition to the work of the education group, the following action items

must be accomplished in this project area:

1. *Develop a list of expert witnesses and a plan for keeping the list current.* The compliance group will identify expert witnesses currently in use, and also will develop a mechanism for updating the list. *Target date for completion: April 1, 1978.*

2. *Develop and implement a plan to share the expertise of agency personnel.* The Compliance and Enforcement Work Group will work with the education group and regional groups to develop a plan and implementing document which will provide guidelines and criteria for use in sharing and exchanging scientific and technical experts. *Target date for completion and implementation: June 1, 1978.*

F. *Responsible for Implementation*

Edwin F. Tinsworth, Consumer Product Safety Commission.

COORDINATION OF LABORATORY FACILITIES AND EQUIPMENT

A. *Description of Coordination Activity*

This project is primarily concerned with coordinating the use of headquarters controlled laboratory facilities and equipment. However, the group will also work with the regional groups to insure that optimal use is made of field laboratories. The principal areas of concern to the Compliance and Enforcement Work Group are considered to be the following:

1. *The development of common analytical methodologies as they relate to the compliance and enforcement functions.* Work in this area will have to be coordinated with possible similar efforts by the Testing Standards and Guidelines Work Group and the Research Planning Work Group.

2. *The analysis of compliance samples by headquarters laboratories.* Headquarters laboratories are often primarily concerned with methodological development and research. The majority of routine compliance testing is usually done in field laboratories. However, for those compliance tests which are performed by headquarters controlled laboratories, there is an opportunity for interagency cooperation.

3. *The sharing of laboratory facilities and equipment.* This activity has been given considerable emphasis by the regional work groups. In most instances, they have already developed and exchanged inventories of analytical resources and are actively developing plans for implementing a variety of sharing mechanisms on a formal basis. Some *ad hoc* sharing has already occurred. The benefits of such sharing are self-evident; however, several valid constraints have been identified by the regional groups which are equally applicable to the headquarters operations. Of significance to the progress in this plan is the fact that the headquarters units have not developed an inventory of analytical resources. Since this is a necessary first step, it is accorded a high priority in the action plan.

B. *Extent of Existing Activity*

Some formal and *ad hoc* cooperative laboratory operations are occurring in the regions. For example, agency laboratories are participating in a quality control exercise in Region VI. The Quality Control analyses being conducted are for the presence of lead, cadmium, and mercury.

C. *Constraints*

Several constraints are readily apparent which will require some further planning to resolve. Given the day-to-day priorities and programs of each agency, any additional workload will create serious resource management problems. For the most part with respect to the other agencies, analysts are largely unfamiliar with methodologies, laboratory procedures, and types of samples being analyzed. This could hamper cooperative efforts in either the analysis of samples, or in allowing outside analysts to utilize the laboratories of other agencies.

In addition, the regulatory procedures used by each agency are somewhat different with respect to the mechanisms employed for maintaining sample integrity, and finally, analysts performing tests for other agencies may be obliged to testify and/or become involved in lengthy trials if these samples become the subject of litigation.

D. *Resolution of Constraints*

The analytical activities of each cooperating agency need to be surveyed, and common items (e.g., similar products, analytical procedures, or equipment needs) should be identified. These areas could be targeted as good candidates for cooperative efforts. Initial efforts could be reserved for crisis or emergency situations which lend themselves to concessions or ready resolution of funding and resource situations. Cooperation in areas of lesser priority could be worked out later by the affected agencies.

In order to become better acquainted with the various methodologies, procedures, equipment, and types of samples being analyzed by each agency, a personnel exchange system should be instituted between the headquarters laboratories. The regional people are already making plans to accomplish similar exchanges. The Compliance and Enforcement Work Group will consider this point in its personnel exchange project.

The sample handling procedures used by each agency to ensure the integrity of its samples and evidence must be examined to ascertain if a common set of procedures for use by all will suffice. Also, a mechanism for involving analysts in the litigation of samples which they analyzed for another agency could be readily worked out. This is not without precedent in government.

E. *Action Items*

The work group believes that cooperative efforts in the area of methodological development and analytical capability can be of significant benefit.

The group plans to work on the following action items:

1. *Compile an inventory of the analytical capability of the headquarters controlled laboratories of each agency.* The inventory will identify facilities, equipment and technical staff. This action item will be given high priority by the group. *Target date for completion: May 1, 1978.*

2. *Conduct a survey of the analytical activities of each agency to identify common areas in terms of products analyzed, procedures, and equipment which are good candidates for cooperative action.* The regional groups are already performing this activity for field laboratories; the Compliance and Enforcement Work Group will coordinate its work with the regional groups. *Target date for completion: June 1, 1978.*

3. *Devise and implement a management plan to facilitate the referral of samples to other participating agencies.* The initial referrals will be under carefully defined circumstances (e.g., national crisis, severe overload due to a significant unanticipated problem). The plan will include steps needed to insure sample integrity and to allow analysts to testify in trials involving other agencies. *Target date for completion: July 1, 1978.*

4. *Devise and implement a plan to facilitate the interchange of technical personnel between the various headquarters laboratories.* The purpose of this step is to assist the personnel in becoming more familiar with each agency's products, equipment, test methodologies and procedures. The group will consider this matter as part of its personnel exchange project. *Target date for completion: August 1, 1978.*

5. *Devise and implement a plan for the sharing or joint use of laboratory facilities and equipment when such circumstances warrant, and for the development of compatible compliance test methodologies.* Extensive coordination and planning will be required, but the potential benefit makes the item worthwhile. *Target date for completion: September 1, 1978.*

F. *Responsible for Implementation*

John Gomilla, Consumer Product Safety Commission.

Coordination of the Use of Non-Laboratory Facilities and Equipment

NOTE.—The Compliance and Enforcement Work Group originally planned to include a project dealing with coordinating the use of non-laboratory facilities and equipment. However, it became apparent that this type of project primarily impacts on the regional offices and can best be planned at the regional level. For this reason, the group dropped this item as a project. The group will be available to work with the regional work groups in this project if requested to do so.

COOPERATIVE APPLICATION OF COMPLIANCE SANCTIONS

A. *Description of Coordination Activity*

In determining what compliance actions should be taken, an agency must consider whether voluntary correction on the part of a firm is adequate, whether a civil penalty action (where authorized) should be initiated to generate an economic incentive to correct violations, and whether other legal options such as criminal prosecution are warranted. It is important not only to coordinate the application of civil or criminal sanctions, but also, to coordinate the determination that voluntary action is sufficient to correct a situation. In general, it would not be appropriate for one regulatory agency to encourage a voluntary type action or to pursue a civil penalty action, while at the same time a second agency was seeking criminal sanctions against a firm for the same or similar type of violation.

The work group is concerned not only with a situation where one incident results in violations of two or more statutes enforced by two or more regulatory agencies, but also, with a single given firm that, because of its inattentiveness, or lack of control, may violate two or more separate acts enforced by two or more agencies on an ongoing basis. A firm or industry with a poor history of compliance may well be violating more than one statute.

On another level, a regulatory agency may in its programmed operations give attention to an industry or a large segment of an industry with the knowledge that certain violations may be found to exist, and that when identified and substantiated, these violations will result in prescribed regulatory action. This type of activity on an industrywide basis should also be coordinated for more effective application of the law and for better protection of the public.

As an example of the above discussion, the improper disposal of PCB-contaminated waste may involve a violation of the Federal Water Pollution Control Act, the Toxic Substances Control Act, and the Resource Conservation and Recovery Act. Certain pesticide use practices may involve a violation of the Occupational Safety and Health Act and the Federal Insecticide, Fungicide and Rodenticide Act. The work group believes that efficient means should be established whereby the cooperating agencies coordinate their investigation and prosecution of such incidents to achieve maximum impact.

B. *Extent of Existing Activity*

To date, considerable effort has been expended at negotiating memoranda of understanding between participating agencies relating to the cooperative application of compliance sanctions. This effort has culminated in the promulgation of a memorandum of understanding between FDA and EPA. The experience of both agencies under this memorandum of understanding has been highly satisfactory. Other memoranda of understanding exist between the agencies but are not directed to the purpose of this activity.

C. *Constraints*

The unique provisions of the statutes which are enforced by the cooperating agencies will limit the extent to which particular activities may constitute violations of more than one statute. Furthermore, differences in regulatory thrust, statutory intent, or program emphasis will limit the extent to which participating agencies will view an enforcement action prosecuted by another agency as satisfying the mandate of its own regulatory program.

D. *Resolution of Constraints*

The constraints noted above, being statutory in nature, are not subject to easy resolution. Despite these constraints, however, there remain many incidents of joint enforcement jurisdiction which are ripe for cooperative action. Precise provisions of joint agreements may provide for cooperative prosecution of violators by means of the most efficient enforcement remedies of the statutes providing regulatory jurisdiction.

E. *Action Items*

The Compliance and Enforcement Work Group will work with the regional groups and the General Counsels of the cooperating agencies to develop viable plans for obtaining maximum benefits from voluntary industry actions and enforcement proceedings.

The following action items will be undertaken:

1. *Catalog the general jurisdiction of each statute enforced by each agency.* A draft paper covering areas of jurisdiction has already been developed. *Target date for completion: April 1, 1978.*

2. *Identify activities which may constitute a violation of statutes enforced by different agencies.* This action item will further define the possible areas of cooperation. *Target date for completion: April 1, 1978.*

3. *Establish a Compliance Sanction Ad Hoc Committee which will catalog the relevant existing and planned memoranda of understanding, determine where new memoranda of understanding are needed, and meet routinely to implement the intent of this project and, in particular the next action item.* The committee may consist of both work group members and other agency personnel. *Target date to establish the committee and catalog the memoranda of understanding: June 1, 1978.*

4. *Establish and implement memoranda of understanding between participating agencies regarding the prosecution of cases involving violations of statutes enforced by separate agencies.* This will likely be a long-term activity with a variety of memoranda of understanding being generated over time. *Target date for the first memorandum of understanding: September 1, 1978.*

F. *Responsible for Implementation*

Thomas W. Brown, Food and Drug Administration.

COMPLIANCE TRAINING

A. *Description of Coordination Activities*

The Compliance and Enforcement Work Group views compliance training as a necessary element in the cooperative compliance efforts of the agencies. The necessary training falls into two categories: (1) training of agency personnel, including both orientation and crossover training, and (2) joint industry seminars. The work group plans to restrict itself to technical training. Non-technical educational programs (e.g., a general seminar presented to a college student body) will be handled by the Education and Communications Work Group.

Orientation training would provide basic compliance information concerning the authorities and practices of each agency to both headquarters and regional personnel. Such training would be particularly important for field investigators and their supervisors and for personnel who may be involved in an exchange program. The work group views compliance orientation training as something which can be done relatively quickly, and can provide the basic knowledge needed for investigators to be able to detect obvious violations of other agencies' laws so that the matters can be referred for proper follow-up. In addition, this type of training may be sufficient to support a personnel exchange program for some types of positions.

Crossover training would be much more detailed than orientation training. The concept of crossover training

is a program which would enable investigators of one agency to either perform basic inspectional work of other agencies or, at a minimum, to conduct joint inspections with personnel from other agencies. Staff other than investigators might also receive crossover training to support the personnel exchange project. It is anticipated that crossover training is a longer term proposal both in the planning and implementation phases.

The work group also believes that joint industry seminars could have a very positive impact on both the industry and the agencies. Such seminars could be used to present a target audience with the basic information needed to comply with the legal requirements of all four agencies. Such an approach would present a uniform front to the industry, would prevent the industry from playing one agency off against another, and would probably be very helpful to small businesses which cannot afford to attend multiple seminars.

From an agency viewpoint, the use of joint seminars would generate a better understanding of issues, would foster new ideas on how to approach problems, and would maintain the cooperative spirit which is the foundation of the current agreement.

The work group realizes that many of the regional groups are considering training projects. The compliance group will work closely with the regional groups to insure that headquarters and field efforts are coordinated.

B. *Extent of Existing Activity*

Some informal joint industry seminars are held but little crossover or orientation training is performed between agencies. A number of regional groups are planning or have implemented some joint training efforts.

C. *Constraints*

There are no apparent constraints for orientation training. Crossover training is much more difficult and its usefulness depends on to what extent the agencies decide to use joint and crossover inspections, and to what extent the personnel exchange program is utilized. Resources may be a problem. Two apparent constraints for industry seminars are the necessity for the agencies to mesh priorities as to which industries need the seminars, and for the agencies to work out a clear presentation of their respective programs.

D. *Resolution of Constraints*

If joint and crossover inspections are determined to be feasible and are implemented on a nationwide basis and if the exchange program extends to positions which require detailed training, the agencies will have to allocate resources and time to develop a worthwhile compliance training program. As far as industry seminars are concerned, the priority problem can be handled by targeting industries for seminars which are on each agency's priority list.

E. *Action Items and Implementation Plans*

Working closely with the regional groups, the compliance group will address the following action items:

1. *Establish a Compliance Training Ad Hoc Committee and plan the orientation training.* A committee consisting of members of the Compliance and Enforcement Work Group and probably other agency personnel will be established; the committee will plan implementation training. *Target date to establish the committee and plan the training: May 1, 1978.*

2. *Implement orientation training.* The start of implementation training can be tied to the initiation of the personnel exchange program. *Target date for implementation: August 1, 1978.*

3. *Explore ways to implement crossover training, and utilize the training committee to finalize plans.* Crossover training will require more detailed analysis and planning. *Target date for finalizing plans: September 1, 1978.*

4. *Implement crossover training.* The extent of crossover training will depend on the type of position involved, but even the less detailed training will take a great deal of time to properly implement. *Target date for implementation: December 1, 1978.*

5. *Plan industry seminars.* The compliance group will work closely with the regional groups to develop both industry seminars, covering general compliance issues, and, assuming needs can be meshed, industry seminars covering more specific regulatory concerns. *Target date for completion of plans: July 1, 1978.*

6. *Implement the seminars.* The group believes that the seminars should be implemented on a regional basis, and therefore coordination with the regions will be essential to get the seminars started. *Target date for implementation: October 1, 1978.*

F. *Responsible for Implementation*

Taylor M. Quinn, Food and Drug Administration.

Coordination of Compliance-Monitoring and Enforcement Priorities

A. *Description of Coordination Activity*

The work group believes that a sound basis exists for the coordination of compliance monitoring and enforcement priorities. Compliance monitoring refers to document reviews, inspections, sample collections, sample analyses and other surveillance activities conducted to determine whether regulatory standards are being observed. Compliance monitoring occurs in accordance with a routine surveillance strategy or in response to particular suspected violations. Enforcement refers to case preparation, case prosecution and other prosecutorial activities undertaken in response to a detected violation.

Frequently, more than one of the four cooperating agencies conduct compliance monitoring at the same facility or establishment. Subject to the surveillance demands of the various regulatory programs, the agencies may coordinate compliance monitoring priorities by (1) fostering the establishment of common criteria for planning program activities, (2) exchanging and coordinating work plans to direct field activities, and (3) coordinating inspection, sampling, analytical and prosecutorial activities. The ability of the participating agencies to establish consistent compliance monitoring and enforcement priorities will greatly impact the extent to which efforts at cooperative inspections can result in efficient utilization of resources.

B. *Extent of Existing Activity*

At present, there is only minimal direct coordination of criteria for setting compliance monitoring and enforcement priorities. Some common elements may be found in the criteria which are applied by the cooperating agencies. These arise, however, more directly from the common requirements of the legislation enforced by the cooperating agencies than from deliberate program coordination. Little collaboration has occurred regarding the extent to which considerations of health risk, for example, will direct the compliance monitoring and enforcement priorities of the participating agencies; nor have the agencies explored in detail bounds which should be placed upon the health-effects outlined or the manner in which a joint concern for health-effects would impact the choice of surveillance targets or enforcement prosecutions. While each agency's work plans for current field activities are readily available to the participating agencies, they have rarely been exchanged.

C. *Constraints*

The unique provisions of the statutes which are enforced by the cooperating agencies may limit the extent to which joint program management criteria may be established. Program coordination is most feasible where different agencies perform compliance monitoring in the same categories of facilities or establishments. Furthermore, the diverse nature of the regulatory problems which have been established pursuant to various legislation will limit the extent to which more than one agency will perform compliance monitoring activities at the same facilities or establishments.

D. *Resolution of Constraints*

The constraints noted above, being statutory in nature, are not subject to easy resolutions. Despite these constraints, however, there remain many areas of joint regulatory coverage which are ripe for cooperative action. Cooperative action may arise in those areas of joint regulatory concern for which there is no statutory impediment and where the management of each participating agency agrees, as appropriate, to: (1) establish common criteria for setting priorities, (2) establish consistent bounds on such criteria, and (3) apply such criteria in a uniform manner to the surveillance and enforcement activities undertaken by their field staff.

E. *Action Items*

The Compliance and Enforcement Work Group views its role in this project as being the unit responsible for providing guidelines, criteria and policy statements which can be incorporated in each agency's work planning efforts for implementation by the regional offices.

The following action items will be pursued by the group:

1. *Establish, as appropriate, common criteria for setting priorities for compliance monitoring and enforcement activities.* The work group will identify existing criteria for establishing compliance monitoring and enforcement priorities utilized by the participating agencies, and will identify surveillance programs for which criteria are similar, or can be made sufficiently similar, to warrant implementation of cooperative compliance monitoring programs. *Target date for completion: September 1, 1978.*

2. *Exchange existing work plans and coordinate the preparation of future work plans to direct field activities of surveillance programs.* The group will exchange current operating plans for field-level surveillance activities, will participate in the identification and prioritization of surveillance targets, and will coordinate the preparation of work plans to accomplish the appropriate level of surveillance of various compliance monitoring targets. *Target date for completion: September 1, 1978.*

3. *Implement to the maximum extent practicable, the coordination of compliance monitoring and enforcement activities.* This action item is actually a project, in itself. As such, it is discussed in the following section of the work plan.

F. *Responsible for Implementation*

A. E. Conroy II, Environmental Protection Agency.

COORDINATION OF INSPECTIONAL RESOURCES

A. *Description of Coordination Activity*

The Compliance and Enforcement Work Group has identified three levels of interagency cooperation which can be undertaken to coordinate compliance monitoring and inspectional activities: (1) referral inspections, (2) joint inspections, and (3) crossover inspections.

Referral inspections are inspections conducted by one agency which result in the referral of a violation to another agency for follow-up inspection by the other agency. The development of checklists containing the substantive requirements of each agency's regulations, and the execution of orientation training of field personnel of each participating agency are prerequisites to the implementation of a referral inspection program.

Joint inspections are concurrent, multi-agency inspections of a single facility. Such inspections would enable the participating agencies to share background information in preparation for the inspection. Furthermore, such inspections would minimize the number of separate inspections to which the owner/manager of the facility must submit. Joint inspections are feasible only with respect to those facilities which are subject to the requirements of more than one agency and only when the inspection of such a facility is consistent with the compliance monitoring priorities of more than one agency.

Crossover inspections are inspections conducted by personnel of one agency who are qualified and empowered to carry out inspections and perhaps also to cite violations under the authority of statutes administered by another agency. The execution of extensive training regarding the substantive requirements of the regulations of each agency and unique inspectional procedures of each agency must be accomplished to implement crossover inspections. Furthermore, the formal delegation of each agency's inspectional authorities and the "commissioning" of appropriate field personnel of each agency to conduct inspections on behalf of other agencies are prerequisites to the implementation of a crossover inspection program. The expected benefit of this level of interagency cooperation is the development of an inspectional cadre which is trained and authorized to execute the compliance monitoring programs of all four agencies. Such a cadre, for example, would be useful for a remote geographic area, where an investigator of one agency could perform compliance work for several agencies.

The goals of these coordinated functions are to: (1) achieve better compliance information sharing at the field level between agencies; (2) achieve a more efficient coverage of the industries jointly regulated by the agencies, and a more effective use of limited field resources; and (3) lessen the burden upon the regulated industries imposed by repeated federal compliance inspections.

B. *Extent of Existing Activity*

At the present time there is little formal coordination established between the agencies. There are a number of limited and informal program agreements between the agencies. For example, EPA and FDA have executed a formal memorandum of understanding which establishes a referral inspection program in the enforcement of pesticide tolerances on foodstuffs and misuse of pesticides.

The regional work groups are actively beginning to plan and implement efforts in this project area.

C. *Constraints*

A number of factors constrain the extent to which any coordination of inspectional activities may be undertaken. These constraints include limited areas of joint regulatory attention, inconsistent compliance monitoring and enforcement priorities, and statutory limitations upon the ability to delegate authority or commission personnel of other agencies to conduct compliance inspections. In addition, the need to perform increasingly detailed and sophisticated training of field personnel of participating agencies and management problems involved in coordinating inspectors' schedules are constraints which will impact the ability to coordinate work in this area.

D. *Resolution of Constraints*

If referral, joint and crossover inspections are to be conducted on a nationwide basis, the agencies will have to allocate the resources and time to resolve the programmatic and logistical constraints noted in the above section.

Each agency must perceive that the efficiencies resulting from these coordinated inspections will justify the substantial front-end investment in training and supervisory coordination that will be required to resolve the management constraints. The constraints which arise from the scope of each agency's regulatory programs, and limitations in the ability to delegate authority or commission personnel of other agencies must be identified and minimized, if they cannot be resolved.

E. *Action Items*

A number of the regional work groups are planning or have implemented activities in this area. The Compliance and Enforcement Work Group will coordinate its efforts with the regional groups. Some local coordinated inspectional activity will occur before the compliance group finalizes national guidelines and procedures in this area.

The following action items will be undertaken by the compliance group:

1. *Identify areas of joint regulatory attention.* The group will assemble a list of the types of facilities subject to regulation, will prepare a summary list of the categories of requirements imposed upon each type of facility, and will conduct an analysis of the level of cooperative inspection (referral, joint, crossover) which is appropriate for each type of facility. *Target date for completion: May 1, 1978.*

2. *Implement a referral inspection program.* The work group will develop and distribute checklists of requirements regulated by each agency, and a list of easily-detected violations, and will develop orientation training as needed to alert field personnel of each agency to violations that they may encounter. In addition, the unit will work with the regional groups to develop and exchange a list of field-level referral contacts. Finally, the groups will implement referrals to appropriate agencies by the field-level exchange of information. *Target date for starting referral inspections on a nationwide basis: September 1, 1978.*

3. *Implement a joint inspection program.* The work group will identify regulatory candidates for joint inspection (by one or more participating agencies) by reviewing targets of joint regulatory interest, common compliance monitoring priorities, and common management interest in inspecting the same facilities. The group will also prepare an interagency schedule for joint inspections, and the regions will then begin to execute joint inspections on a nationwide basis. *Target date for starting nationwide joint inspection programs: October 1, 1978.*

4. *Implement a crossover inspection program.* The compliance group will evaluate the feasibility of crossover inspections by requesting the agency General Counsels to assist the group in conducting a statute-by-statute analysis of any limitations on the ability to delegate authority or commission personnel of other agencies to conduct compliance inspections. The group will develop appropriate training regarding the substantive requirements of all regulations monitored by crossover inspection, and any procedural requirements of the statutes being enforced. In addition, the unit will coordinate compliance monitoring priorities and allocation of field-level personnel to achieve maximum coverage from the inspectional activities of participating agencies. Finally, the compliance and regional groups will launch a limited pilot program of cross over inspections. *Target date to start pilot program: January 1, 1979.*

F. *Responsible for Implementation*

A. E. Conroy II, Environmental Protection Agency.

ESTABLISHING COMMON OR COMPATIBLE INVESTIGATIONAL FORMS

A. *Description of Coordination Activity*

The work group plans to study the feasibility of developing common or compatible investigational forms to facilitate the exchange of information and data. Forms which will be studied include inspection forms, sample collection forms and consumer complaint forms. If the group finds that some forms can be made compatible or identical, and if the group determines that the potential benefit is worthwhile, the project will be expanded to include the development of the forms.

In addition, the group will develop a checklist which can be used by investigators of each agency to identify possible violations of laws enforced by other agencies. This checklist will be used for referral inspection purposes.

B. *Extent of Existing Activity*

A number of the regional groups are actively involved in this project area, and are considering the use of common forms on a pilot basis. In addition, EPA and OSHA have had preliminary discussions in this area.

C. *Constraints*

Problems may arise due to differences in operating procedures and work practices, differing legal and regulatory requirements, and differing requirements for data collection. In addition, OSHA reports that alteration of forms may be considered a change in work practices and may require, in some cases, discussion with the approval by the union bargaining agent for the field employees.

D. *Resolution of Constraints*

Assuming that the development of common forms is determined to be feasible, possible union obstacles will have to be addressed and resolved through negotiation.

E. *Action Items*

The Compliance and Enforcement Work Group will coordinate its efforts on this project with the regional groups. Early in the process, it must be determined if the use of common forms is feasible, and, if so, if the benefits are worthwhile, particularly for field activities.

The following action items will be pursued:

1. *Evaluate the feasibility of developing common or compatible forms and identify candidate forms.* The work group will study the issues of feasibility, will identify potential candidate forms, and will work with the regional groups to insure that any forms which are deemed to be good candidates will meet the needs of the field offices. *Target date for completion: April 1, 1978.*

2. *Develop and implement common or compatible forms.* Assuming that some forms are determined to be candidates for consolidation into a common format, the group will work with other agency personnel to develop and begin the use of the common or compatible forms (perhaps on a pilot basis). The group anticipates that the forms will be developed as part of an ongoing process. *Target date for developing and beginning use of the first form: August 1, 1978.*

3. *Develop a checklist for referral inspections.* The group will develop a checklist for use by inspectors in identifying violations of the laws administered by each agency. The checklist will be used as part of the referral inspection program. *Target date for developing checklist: August 1, 1978.*

F. *Responsible for Implementation*

Roger Clark, Occupational Safety and Health Administration.

PROJECT SUMMARY SHEET

Action items and target dates

Project: Enforcement Response to Health and Environmental Emergencies

1. Identify each agency's current emergency response programs and capabilities—April 1, 1978.

2. Designate interagency contact points for emergency response coordination—April 1, 1978.

3. Establish a plan for interagency notification of an emergency incident involving only one agency—June 1, 1978.

4. Implement a procedure for interagency response to emergency incidents which involve more than one agency—November 1, 1978.

Project: Personnel Exchange

1. Determine if valid obstacles exist, and, if so, whether steps can be taken to remedy the problems—April 1, 1978.

2. Plan the personnel exchange program—July 1, 1978.

3. Implement the exchange system—August 1, 1978.

Project: Sharing Expertise

1. Develop a list of expert witnesses and a plan for keeping the list current—April 1, 1978.

2. Develop and implement a plan to share the expertise of agency personnel—June 1, 1978.

Project: Coordination of Laboratory Facilities and Equipment

1. Compile an inventory of the analytical capability of the headquarters controlled laboratories of each agency—May 1, 1978.

2. Conduct a survey of the analytical activities of each agency to identify those common areas in terms of products analyzed, procedures and equipment which are good candidates for cooperative action—June 1, 1978.

3. Devise and implement a plan to facilitate the referral of samples to

other participating agencies—July 1, 1978.

4. Devise and implement a plan to facilitate the interchange of technical personnel between the various headquarters laboratories—August 1, 1978.

5. Devise and implement a plan for the sharing or joint use of laboratory facilities, and for the development of compatible compliance test methodologies—September 1, 1978.

Project: Cooperative Application of Compliance Sanctions

1. Catalog the general jurisdiction of each statute enforced by each agency—April 1, 1978.

2. Identify activities which may constitute a violation of statutes enforced by different agencies—April 1, 1978.

3. Establish a Compliance Sanction Ad Hoc Committee which will catalog the relevant existing and planned memoranda of understanding, determine where new memoranda of understanding are needed and meet routinely to implement the intent of this project and, in particular, the next action item—June 1, 1978.

4. Establish and implement memoranda of understanding between participating agencies regarding the prosecution of cases involving violations of statutes enforced by separate agencies—September 1, 1978.

Project: Compliance Training

1. Establish a Compliance Training Ad Hoc Committee and plan the orientation training—May 1, 1978.

2. Implement orientation training—August 1, 1978.

3. Explore ways to implement crossover training, and utilize the training committee to finalize plans—September 1, 1978.

4. Implement crossover training—December 1, 1978.

5. Plan industry seminars—July 1, 1978.

6. Implement the seminars—October 1, 1978.

Project: Coordination of Compliance Monitoring and Enforcement Priorities

1. Establish, as appropriate, common criteria for setting priorities for compliance monitoring and enforcement activities—September 1, 1978.

2. Exchange existing work plans and coordinate the preparation of future work plans to direct field activities of surveillance programs—September 1, 1978.

3. Implement to the maximum extent possible, the coordination of compliance monitoring and enforcement activities—See next project.

Project: Coordination of Inspectional Resources

1. Identify areas of joint regulatory attention—May 1, 1978.

2. Implement a referral inspectional program—September 1, 1978.

3. Implement a joint inspection program—October 1, 1978.

4. Implement a crossover inspection program—January 1, 1979.

Project: Establishing Common or Compatible Investigational Forms

1. Evaluate the feasibility of developing common or compatible forms and identify candidate forms—April 1, 1978.

2. Develop and implement common or compatible forms—August 1, 1978.

3. Develop a checklist for referral inspections—August 1, 1978.

DECEMBER 9, 1977.

Mr. EDWIN F. TINSWORTH,
Chairman, Compliance and Enforcement Work Group.

EDUCATION AND COMMUNICATIONS WORK PLAN

EDUCATION

I. *Objectives*

A. To plan, develop, and evaluate a coordinated education program directed toward consumers;

B. To plan and develop a coordinated external training program for key consumer representatives who can produce a multiplier effect;

C. To recommend guidelines for promoting the implementation of an external coordinated education and training program;

D. To recommend a coordinated communication system for reaching the target populations to whom these education and training (external) programs are to be directed; and

E. To assess the effectiveness of labelling as an educational tool and a preventative strategy.

II. *Scope of work*

The above objectives will focus on:

A. Consumer and worker health and safety;

B. Toxic substances;

C. External training;

D. Labelling of toxic substances.

III. *Description of coordinated activities*

A. *Publications Booklet.* Each agency has printed materials geared toward common audiences that can be used to raise their awareness level and knowledge level about health and safety. We propose to develop a *Health and Safety Publications Booklet for Consumers.* Such a document would have some annotated listings of health and safety publications and audiovisual materials of interest to educators, consumers in the home environment and employees in the work place. It will address such concerns as consumer product safety, foods, drugs, toxic chemical substances, and other areas relating to health and safety protection.

The publications booklet will include the following:

1. The working title and cover legend of the booklet is to be: "It's For You To Know . . . A listing of information materials you can obtain about dangerous chemicals in your environment, home and workplace."

2. The objective of this publication is to help the public learn what information materials are available to them from CPSC, EPA, FDA and OSHA concerning the law, specific chemicals, protection/prevention, etc.; how to obtain that information, etc. Along with being a handy catalog, it is intended to let the citizen (esp. teachers, health personnel and others who frequently request such material) judge by comparison which are the "correct" materials for a particular purpose from among many available.

Key elements will be:

(a) Intro . . . table of contents . . . "how to use this booklet" etc.

(b) General publications available from four agencies and how to order.

(c) Selected technical publications and how to order; where to go for other specific technical information.

(d) Slide shows, filmstrips, A/V shows, etc.; how to order films; etc.

3. Production Schedule:

(a) Approve scope and plan for project, 2/1/78.

(b) Approve overall project; Agency Heads, 2/15/78.

(c) Draft and layout finished, 3/31/78.

(d) Approvals/suggested changes thru four agencies, 4/15/78.

(e) Out for typesetting, 4/30/78.

(f) Mechanicals finished, 5/15/78.

(g) To printing, 5/16/78.

(h) Finished, first printing, in-hand, 7/15/78.

4. Distribution will be via several routes: selected agency mailing lists, and upon individual request through the Consumer Information Center.

The booklet will be developed on a contract. Anticipated quantity is 225,000-750,000 copies.

Lead Agency: Joint—EPA (Mike Scott) and CPSC (Elizabeth Johnson).

B. *Education and Training (external) Curriculum Guide for Briefings and Workshops.* This is intended to be a two-sectional document to be used by regional and area offices of each of the four agencies:

1. *Section I*—A coordinated comprehensive guide to be used in the conduct of briefings with key national, regional, and state consumer-oriented organizations relative to the structure, functions, and process for implementation of the interagency agreement. This section would increase consistency of information presented and assist regional directors in being certain that major elements of the structure, the planning, and the projects being developed are accurately presented.

2. *Section II*—A general education and training curriculum guide for the

conduct of health and safety workshops. It would be developed to encourage consistency, but it would also encourage flexibility. A model would be pilot tested and then replicated for national implementation. The conduct of cooperative annual regional education workshops by regional and area offices of the four principal regulatory agencies charged with protecting the public and the environment from adverse effects of toxic and hazardous substances would be a meaningful and significant step. These cooperative annual workshops are intended to attract local representatives of consumer-oriented organizations who have a multiplier effect, an established constituency, and established network of communications, and who are willing to assist us in our educational goal of an "informed safety minded consumer".

Lead Agency: CPSC (Elizabeth Johnson).

C. *Development of a Generic Health and Safety Curriculum Activity Guide for Schools.* The development, promotion, and distribution of a generic health and safety curriculum activities guide for elementary, middle, and senior high schools would greatly enrich the present school curriculum while at the same time provide a natural blend into existing goals and curriculae. The implementation of this guide in schools would raise the level of health and safety awareness among the nation's most vulnerable population—our children. We therefore, propose the development of a *Generic Health and Safety Curriculum Activities Guide for Schools.*

Lead Agency: CPSC (Elizabeth Johnson).

D. *Effective Labelling as an Educational Tool and Preventive Strategy.*

Hypothesis statement: Effective labelling is an educational tool that communicates a basic message requiring the reader or user to make a decision about his behavior.

The following tasks are identified:

1. A review of the state of the art of labelling of toxic substances through or by CPSC, EPA, FDA, and OSHA.

2. Analyze the findings of the state of the art.

3. Establish a clear, specific coordinated strategy for labelling that can be jointly accepted and implemented by the above four agencies and the appropriate regulatory personnel.

The criteria for establishing labelling as a preventive strategy and an educational tool must include the following:

It is understandable to the user/reader;

It has panels that contain directions and treatment to the user that is attractive and attention drawing to the user so that the message will want to be read;

The print is legible (enlarged print size, type form, color contrast, etc.);

Directions that are short, concise, and in *simple* language;

The label has been pre-tested for readability, comprehension, clarity, and elimination of confusion.

Lead Agency: CPSC (Elizabeth Johnson).

ADDENDUM—EDUCATION/COMMUNICATIONS TASK FORCE

Development of a Generic Health and Safety Curriculum Activity Guide for Schools.—Purpose and Description—The purpose of this Curriculum Activities Guide is to provide a resource manual for teachers of elementary, middle, and senior high school grades in teaching basic health and safety content to their students. The content would focus on those categories of products over which the four agencies have jurisdiction.

The guide would have, as a minimum, the following:

Introduction; purpose and how the guide can be used; interdisciplinary approaches and opportunities; how the content fits into existing curricula; basic concepts to be taught; objectives (behavioral and learning); background information for the teacher; information about the four agencies; suggested activities; laws protecting the health and safety of consumers; pre and post tests; knowledge and behavior inventories; and resource material listings.

Some of the health and safety content categories would include:

Home safety; school safety; safety and health in the work place; environmental health and safety; and food, drug, and cosmetic safety.

Distribution—The Curriculum Activities Guide would be distributed (with an accompanying letter) to the 10,000 or more public school curriculum specialists across the country; to school supervisors of consumer education, home economics, industrial education, distributive education, social sciences, health-physical-and safety education. The Guide would, also, be distributed to parochial schools. If the quantities are sufficient, one guide should be placed in each school in the country.

Accompanying each Guide would be a "franked" self mailer—two fold which would have about 5-7 evaluative questions. This would serve as a preliminary evaluation feedback.

COMMUNICATIONS

I. BROCHURES/PRINT MATERIALS

A. General Information Booklet on Toxic Substances and the IRLG.

Scope and implementation of project are listed below:

1. "The Chemical Threat"—working title.

2. The objective of this publication is to help the public understand what the government is doing to protect the citizen from the dangers of certain chemicals and advise on self protection.

The key areas in the booklet will be:

(a) What these chemicals are that we're concerned with.

(b) Where they are and why—in products, the workplace, the environment.

(c) How people can protect themselves from the dangers of these chemicals; how they can be protected.

(d) The law: Food, Drug and Cosmetic Act, Occupational Safety and Health Act, Toxic Substances Control Act, PPA, HSA, etc.

(e) The agencies that carry out those laws—who they are, what they do—their activities—especially those related closely to the daily life of citizens, workers, consumers.

(f) What the Government does not do in the area of toxic substances; why.

(g) How the citizen can work with the Government to correct a problem—which agency is the right one for which problem.

(h) The IRLG—what it is all about and why—what it is not.

(i) Directory: Organizational tables; chief/key personnel, addresses, phones; how to get to the right office; what to do when you can't seem to get an answer to your question.

3. Production schedule: (a) Approve scope and plan of project, work group, October 14, 1977; (b) approve overall project, agency heads, October 31, 1977; (c) draft finished ready for approval, March 1, 1978; (d) approvals/suggested changes—through all 4 agencies, March 15, 1978; (e) final draft with changes approved, agency heads, March 29, 1978; (f) out for typesetting, April 12, 1978; (g) mechanicals finished, May 2, 1978; (h) to GPO (w/letter from IRLG heads asking special service), May 9, 1978; and (i) finished first printing (500,000 copies) in hand, June 5, 1978.

4. Distribution for the publication would be via several routes. Copies will be furnished to each agency for mailing to their own mailing lists. Copies will be printed and shipped to cover bulk requests by the agencies' constituencies (e.g.: labor unions, consumer groups, women's groups, agriculture associations, trade associations, press and media, environmental organizations, etc.) for redistribution to their memberships. Agencies will also be supplied with quantities for headquarters and field offices for the numerous kind of requests out of general inventory.

Finally, arrangements will be made to distribute in response to continuing general inquiries via the Consumer Information Center in Colorado. This is a service already used by 3 of the IRLG agencies to distribute much of their public information material, and so coordination and cooperation will be both simplified as well as desirable. Also, mention will be made of the brochure in our PSA.

5. Lead Agency—EPA (Mike Scott).

B. Guidelines for Emphasizing Interagency Cooperation in Agency Publications.

On November 7, 1977, a memorandum was sent to the Directors of Communications/Public Affairs/Education of CPSC, EPA, FDA, and OSHA requesting that they use and distribute, as appropriate, in headquarters and regional offices, the below listed Guidelines, as approved by the IRLG, in their publications.

Guidelines for Emphasizing Interagency Cooperation

The Heads of the FDA, EPA, CPSC, and OSHA have been emphasizing the need for their agencies to cooperate more closely and to avoid duplication of effort in regulatory and scientific activities.

On September 26, the agency heads signed an agreement setting forth eight areas of cooperation. A copy of this agreement is attached.

As part of the new spirit of cooperation among the agencies, the Work Group on Education and Communications urges all four agencies to emphasize in their publications and other public materials the cooperative effort.

Specifically, the Work Group urges:

That the interagency agreement be the subject of a story in internal newsletters produced by the four agencies.

That the agreement be the subject of a longer story in any other periodical publications issued by the four agencies, such as magazines.

That appropriate press emphasis be given to the effort by the press offices of the agencies.

There is also a need for publications and other public materials to give proper emphasis to the occasional overlapping authority and responsibilities of the four agencies. The public is often confused about which agency is responsible for particular areas, and about overlapping authority.

For example, if a brochure is being published about toxic substances by EPA, the brochure should mention that other agencies also are active in enforcing this new law, and give how the authority and responsibilities are distributed.

If an FDA brochure is being written about prescription drugs, mention should be made of the safety packaging required under a law enforced by CPSC.

If OSHA is regulating a chemical in the workplace, FDA in foods and drugs, EPA in pesticides and CPSC in consumer products, publications should make clear how the agencies interact and where their responsibilities lie.

Publications also should refer to other agencies for additional information about a subject. This might be done in the form of "For further information about this subject, write to—."

Lead Agency: FDA (Wayne Pines).

II. FILMS/AUDIO-VISUAL MATERIALS

A. Production of a Fourteen (14) Minute Color Film (16 mm).

1. *Scope.*—The film would stress two main points: (1) the need for people to take responsibility for their own self-protection from products, at home and at work, and (2) the need for reading labels as a means of self-protection. The film would also point out the general responsibilities of each of the four agencies, and stress the agencies' limitations in providing absolute protection from hazards or deception.

2. *Dissemination.*—Modern Talking Pictures, a commercial firm, would receive 300 copies for bookings. FDA consumer affairs officers would use the film as an integral part of their consumer education programs; OSHA, EPA, and CPSC would have the films available through their headquarters and regional offices. There would be a major effort to book the film for showing on local and national television, through letters to stations signed by the four agency heads. There also should be a major effort to encourage schools to use the film in their consumer education projects, and each of the four agencies would incorporate the film into its consumer education program.

3. *Project schedule.*—A contract could be signed within three months after a dollar commitment is made. It would then take three months for writing and production of the film.

4. *Lead agency.*—FDA (Wayne Pines).

III. HEARINGS AND PUBLIC MEETINGS CALENDAR

This project is intended to keep each agency informed of rulemaking hearings and public meetings regarding toxic substances that are of interest to the four agencies. Also, this will serve as a way to hold joint meetings for agency heads and personnel, and can also reduce duplication in efforts.

A calendar will be published during the third week of each month which will list relevant hearings and meetings for the following month. The calendar will consist of: the subject of the meeting, the time and location, the "lead" agency, and a contact. An initial calendar will include events up to six months in advance, and will be updated, as necessary.

EPA will be responsible for compiling this calendar based upon submission of upcoming events from the counterparts of the other agencies. The submissions will be due about the middle of each month. EPA will forward the completed calendar to the counterparts, who will be responsible for distribution within the agencies and the public. We also will suggest that the recipients of the calendar encourage joint coordination or sponsorship of hearings and meetings.

Lead Agency: EPA (Larry O'Neill). (Sample calendar format is attached.)

"MODEL CALENDAR"

DRAFT

JANUARY 1978 --- PUBLIC MEETINGS AND HEARINGS CALENDAR FOR OSHA, EPA, CPSC AND FDA

The calendar, issued monthly, lists public meetings and hearings regarding toxic substance issues involving the four agencies. Additions, corrections or comments should be addressed to EPA, Public Awareness Office (A-107), 401 M Street, SW., Washington, D.C. 20460, ATTN: Larry O'Neill, phone: 202/755-0344.

SUBJECT	TIME, LOCATION	LEAD AGENCY	CONTACT

IV. INTERAGENCY DIRECTORY

A. A Directory has been established which includes:

1. The Interagency Regulatory Liaison Group, whose eight members act as surrogates for the four Principals or Agency Heads in coordinating and managing the execution of the Interagency Agreement;

2. The Eight Work Groups established under the Interagency Agreement. One IRLG member serves as liaison between one work group and the IRLG;

3. Other Key Contact Personnel within each agency headquarters offices, including:

(a) Regulatory Alert System contact persons who notify the other three agencies of planned or impending regulatory action.

(b) Correspondence/Referral (mail) Contacts who will answer referral inquiries within the agencies and will expedite replies to the consumer.

4. Field Offices: CPSC area offices, EPA, FDA, and OSHA regional offices.

This Interagency Directory is being issued to the Directors of Communications/Public Affairs/Education of CPSC, EPA, FDA and OSHA for distribution, as appropriate, in headquarters and regional offices. The Directory will be periodically revised.

Lead Agency: CPSC (Nancy Marcellino).

V. CORRESPONDENCE/REFERRAL (MAIL)

Background: Letters and complaints received by us represent the first contact the consumer has had with the various agencies. We are commited to providing the consumer with accurate and speedy responses. This initial contact between agency and consumer is a valuable one and must be considered as an opportunity to interact with the consumer in a positive and professional manner.

We are aware that each agency has its own system for recording and processing consumer inquiries and complaints. However, we feel that the use of uniform guidelines, within the four agencies for recording and answering misdirected mail and complaints, will expedite replies to the consumer and simplify collation of information among the agencies.

A. Guidelines for Information Referral

1. At point of opening, misdirected mail should be routed daily to the interagency "contact" person, as listed in the interagency directory. The "contact" person will:

(a) Keep a daily log to record the following information (See sample log sheet attached):

(1) name of consumer,

(2) date inquiry is received,

(3) agency to receive referral,

(4) date referral is received,

(5) date referral is answered,

(6) "Red flag" letters of a more serious nature, i.e., potential health hazards.

(b) Compile and mail monthly reports to other agencies (from daily log) for comparison with those received from the other agencies.

(c) Misdirected mail should receive preference because of the time lost in getting the letter to the appropriate agency.

(d) A prepared letter, explaining why the incoming correspondence was referred to another agency, should be sent to the consumer the same day as the inquiry is received. This letter could also describe, in brief terms, the responsibility of the agency referring the letter.

2. Telephone referrals:

(a) Where appropriate, telephone consumer directly and give the telephone number of the proper agency.

(b) Consumer telephone calls should be referred to the appropriate agency and the consumer urged to call back if he does not receive a satisfactory reply.

3. Publications:

(a) IRLG agencies should advise each other when putting items in their publications in order that the appropriate agency can gear up for a possible increase in inquiries.

Lead Agency: FDA (Alex Grant).

IRLG LETTER REFERRAL LOG

DRAFT

	Received From			Referred to			
Name of Consumer	Date of Letter	Agency	Date	Red Flag	Agency	Date	Red Flag	Date of Reply

VI. PRESS RELEASE/PRESS CONFERENCE COORDINATION

A. This plan is intended to ensure that each agency is informed of news events of interest and that each agency has a fair and equal chance to participate in the announcement.

Each work group news contact will be responsible for identifying as far in advance as possible those rules, enforcement actions, or other events that involve other IRLG agencies and that warrant a news release, conference or other coverage.

The news contact at the agency that is the "lead" for the action will notify her or his counterparts and consult on how to best make the announcement. The "lead" news contact will be mainly responsible for drafting the news release or other material and, in the case of a news conference, for making physical arrangements. The "lead" should feel free to call upon his IRLG colleagues for help in this work.

The "lead" will also be responsible for obtaining clearance of the material from all the agencies involved and will strive to incorporate his views in the final work. The "lead" will attend to reproduction of the material for the event. His counterparts will assist in press notification.

Because of the short lead-times and unpredictable nature of many news happenings, this system has to be regarded as fluid and subject to change as circumstances dictate. It will work only if each of the agency's news contacts cooperate with each other.

B. The press officer from each agency, as listed in our interagency directory, assigned to the above coordination is listed below:

Consumer Product Safety Commission, Susan Smirnoff Charles, 202-634-7780.
Environmental Protection Agency, Marlin Fitzwater, 202-755-0344.
Food and Drug Administration, John T. Walden, 202-443-4177; Wayne Pines, 202-443-3285; Nancy Glick, 202-245-1144.
Occupational Safety and Health Administration, Jim Foster, 202-523-8151.

Lead Agency: EPA (Larry O'Neill).

VII. PUBLIC SERVICE ANNOUNCEMENTS (TV, RADIO, PRINT)

A. Production and distribution of a series of jointly sponsored radio, television and print messages.

1. Scope: The PSA campaign would focus on a broad generic hazard that is under the purview of all the agencies, such as pesticides. The materials would present basic warning information and explain that as a consumer or a worker he or she has a right to expect and require protection, but the joint responsibility belongs to industry as well as to the consumer. In general, the campaign would be designed to give simple basic information that would raise the level of awareness and concern. It should also provide a response mechanism so that a listener or viewer can write or call for more information, such as the joint booklet on toxic substances.

2. Implementation and Distribution: The Work Group should initiate contact with the Advertising Council as well as other production and distribution firms. The Work Group may be able to produce the material independently of the Advertising Council—(probably with some savings) and then offer it to them for approval and distribution. There are several other distribution agencies available. Basically, copies of the radio and television spots could be made available to every broadcast outlet in the country. The materials would be distributed to all major magazines and major newspapers as well as specialized publications such as union newspapers or local consumer newsletters. Copies of the materials would also be made available to the regional offices of the four agencies for local distribution and use.

3. Project Schedule: Six months from the time of commitment of funds, a campaign could be in distribution.

4. Lead Agency—OSHA (Frank Greer).

MR. KENNETH R. RASHID,
Chairman, Education and Communications Work Group.

DECEMBER 1, 1977.

EPIDEMIOLOGY WORK PLAN

GOAL A—IDENTIFICATION OF EPIDEMIOLOGY PROGRAMS AND EPIDEMIOLOGY RESOURCE PERSONNEL

The severe limitation in personnel in epidemiology within the four agencies as well as nationally requires that these scarce resources be utilized as effectively as possible. Sharing information on programs and personnel should provide assurance that there is no unnecessary duplication of effort, that high priority needs are receiving support, and that individuals engaged in these studies are aware of the talents that they can draw upon in other agencies for assistance in their own projects.

Task 1.—Identification of Epidemiology Resource Personnel—The Epidemiology Work Group has decided that a listing of personnel will be most useful if it identifies both those individuals who have received academic training in epidemiology and those whose work directly contributes to epidemiological projects. Therefore, the list will classify individuals in epidemiology under the following operational categories: (1) individuals with academic credentials in epidemiology, (2) individuals with experience and/or training in the application of epidemiological methods, (3) support individuals for epidemiological research and application (biostatisticians, statisticians, information specialists, etc.)

The report identifying personnel of this agenda item is expected on January 31, 1978.

Task 2.—Identification of Epidemiology Programs—This task will begin with output on epidemiology programs from the Research Planning Work Group. This material will be amended if necessary to meet criteria established by the Epidemiology Work Group. Epidemiologists and related scientists in the four agencies will be queried for additional programs.

The target date for completion of this task is February 28.

GOAL B—GUIDELINES FOR EPIDEMIOLOGICAL STUDIES

An increasing number of "epidemiological studies" have been submitted to various government agencies involved in the regulatory process over the past several years. Many of these studies have provided a factual basis for regulation. However, others have led to lengthy debate due to inadequate design, inadequate data, and inappropriate analyses, often delaying public health actions and sometimes resulting in inconsistent decisions by different agencies having overlapping or joint interests. Furthermore, such inadequacies have too often led to un-

necessary or inappropriate expenditure of scarce resources; i.e., time of professional staff and money, to "redo" the research. To more readily facilitate the objective conduct and evaluation of epidemiologic studies which may be used for regulatory decisionmaking, the Epidemiology Work Group has determined that it is necessary to develop and promulgate guidelines for such epidemiologic studies. While it is not intended that a standard model be developed against which epidemiologists would mold their research, we believe it is necessary to develop minimal criteria by which submitted studies can be objectively evaluated.

Task 1.—Guidelines Development, Announcement and Promulgation—The Epidemiology Work Group will develop draft guidelines for announcement in the FEDERAL REGISTER for public comment and, after consideration of comments, for promulgation as formal guidelines.

The milestones for this task are as follows:

Develop draft guidelines—May 30, 1978.

Announcement in the FEDERAL REGISTER—September 30, 1978.

Promulgation of formal guidelines in the FEDERAL REGISTER—March 31, 1979.

Task 2.—Epidemiologic Methods Research and Documentation—Simultaneous to the development of draft guidelines, the Epidemiology Work Group will undertake:

A. An evaluation of selected published studies with regard to their design, analysis and conclusions, and

B. Research in epidemiologic methods concerning the critical effects of demographic, confounding and study variables.

Each of these subtasks will provide for background documentation and support the promulgation of draft guidelines.

The milestones for this task are as follows:

Subtask A—Six months after allocation of resources.

Subtask B—Twelve months after allocation of resources.

GOAL C—IDENTIFICATION OF LEGAL AUTHORITIES AND REQUIREMENTS FOR EPIDEMIOLOGIC STUDIES

Increasing evidence documents that medical, industrial hygiene, engineering control, and monitoring records are often not retained after a few years by corporations, hospitals, and others. This adversely impacts on our ability to identify heretofore unrecognized or unacknowledged health hazards associated with chemicals and processes. Evidence also documents corporate opposition to the access of existing records for health evaluation purposes, even in the presence of highly suggestive data supporting a health hazard. Currently, regulations prescribed under most existing legislation are addressing record retention only after the recognition of a health hazard. However, records must be retained and studied in order to identify health hazards *de novo.*

Several regulatory agencies routinely require safety testing of chemicals in animals. There is much less use of existing authorities to require industry to carry out epidemiological studies using its own records. Such epidemiological studies would identify adverse health effects which failed to be documented in animal tests. The extent of federal legal authorities to set standards for industry-conducted epidemiological studies, and to enter industry in order to carry out government studies, needs further exploration. Furthermore, once a chemical is found to be safe in animal studies, the extent to which human testing for effects that would not show up in animal tests needs to be explored from both a scientific and ethical perspective.

Task 1.—Identification of Existing Authorities—The Work Group has already requested General Counsels in each agency to survey the current legal authorities within each agency to require retention, collection, collation, and disclosure of data pertinent to human disease potential. This survey also has addressed the authorities each agency has to share and transfer right-of-entry for such data. We are also investigating existing authorities to require industry to carry out epidemiological studies, our authorities to set minimum quality standards for such industry studies, and our authorities pertaining to industry-conducted human testing.

Proposed timetable: March 15, 1978.

Task 2.—Need for Additional Agreements for Authorities—After analyzing the responses from all General Counsels, the Work Group will make recommendations for:

A. Immediate action in the form of prescribed regulation under existing legislative authorities. Proposed timetable: Continuing effort.

B. Future actions such as interagency agreements and proposed legislative changes. Proposed timetable: Continuing effort.

GOAL D—DEFINING DATA BASES OF INTEREST

The Epidemiology Work Group discussed a variety of data bases and problems associated with the use of such data sources. The data bases include those at NCI, various cancer registers, Professional Activity Studies, Bureau of Census data, Social Security Administration data, data from the National Center for Health Statistics, and others. Several subcommittees were formed to explore the following problem areas associated with the use of such data bases. These problems include:

1. The right to access and the method of access.

2. The methods to be used to challenge the denial of the use of a particular data base.

3. Resources needed to access particular data bases.

Subcommittees have been established to explore the data bases of the Social Security Administration, Professional Activity Studies, the National Center for Health Statistics and the Center for Disease Control. The first report from these subcommittees is expected on February 28, 1978. Additional target dates will be set as specific problems and opportunities are identified.

DR. ROBERT D. VERHALEN,
Chairman,
Epidemiology Work Group.

JANUARY 23, 1978.

INFORMATION EXCHANGE WORK PLAN

I. SUMMARY

The IRLG suggested that common requirements of the four regulatory agencies be identified, current systems surveyed, and new or modified systems developed in order to promote effective information exchange.

A recently completed study by MITRE sponsored by CEQ, EPA, and NLM has identified these requirements, surveyed existing systems, and proposed a loosely-coupled network of new systems and modified current systems. This proposed Chemical Substances Information Network may be viewed as an overall blueprint for developing effective information exchange among the four agencies.

The Information Exchange Group has identified six projects which are consistent with the MITRE study. These projects are appropriate for coordinated action by the four agencies, and would facilitate information exchange considerably.

Four of the six projects provide for coordination of on-going activities presently performed independently by the four agencies. The remaining two projects call for feasibility studies and eventual development of new automated information systems to serve the four agencies.

To successfully overcome the inherent inertia of these on-going activities, these coordination projects will require strong support and attention from the administrators to ensure full cooperation from all key agency personnel in affected organizations. These four projects may briefly be described as:

A. Use of common identification codes for related information among all four agencies. This would apply to

codes for specific chemicals, establishment sites, products, and uses. These codes would be applied to both new and existing systems of interest to the four agencies, unless a written cost/benefit analysis, approved at an appropriate level, demonstrates that it is not reasonable to do so.

B. Development of common procedures for safeguarding confidential information. Policies should be consistent so that confidential information can be exchanged among any or all of the four agencies without loss of security.

C. Joint monograph (criteria document) planning and production. Monographs could be designed to include requirements of all four agencies, and procurement simplified through master task order type contracts.

D. Development of criteria for coordination of reporting requirements. To the extent permitted by differing agency laws and missions, certain types of data submission from regulated industries could be made uniform among the four agencies, leading to enhanced data sharing capability and to a reduction in the reporting burden placed upon industry.

The two recommended system projects would begin with feasibility studies and lead to development of the following interagency systems:

E. Regulated Chemicals System—contains information on standards and regulations which have been proposed or promulgated concerning individual chemical substances or classes of chemicals; and,

F. Chronic Testing Support System—contains results of long-term chronic toxicity monitoring studies, and provides a strong analytic capability.

In addition, a seventh project has been identified to support the work of the Information Exchange Work Group to provide continuing management of work plan activities and to continue to assess agencies' information needs and propose answers to these needs.

The remainder of this action plan contains a perspective section which provides some highlighting of the MITRE Study and demonstrates its appropriateness for consideration by the four agencies; a section on the four coordination projects; a section describing the two systems projects which should be entered into jointly by the four agencies; a recommendations section; and a table showing examples of possible future projects. The Information Exchange Work Group recommends that the four Agency Heads approve the seven projects and provide resources sufficient to implement them.

II. PERSPECTIVE

The IRLG suggested that common requirements of the four agencies be identified, current systems surveyed, and new or modified systems developed in order to promote effective information exchange.

A recently completed study by MITRE sponsored by CEQ, EPA, and NLM has identified these requirements. The study concerned itself with the following regulatory agency functions and data categories needed to support those functions:

Functions of Regulatory Agencies

(1) Hazard Identification/Prioritization; (2) Hazard Analysis; (3) Research/Development; (4) Decision Package Development (Criteria Documents); (5) Monitoring/Analysis; (6) Preparation of Regulations and Guidelines; and (7) Enforcement/Compliance.

Data Categories Needed to Support Those Functions

(1) Substance Indentification; (2) Production Aspects; (3) Marketing; (4) Exposure; (5) Epidemiology; (6) Biological; (7) Environmental; (8) Standards/Regulations; and (9) Managerial/Administrative.

This study, completed June 1977, also includes a survey and evaluation of current systems, and proposes a coordinated plan for developing new systems and modifying old ones so they will more effectively meet regulatory agency needs. This proposed Chemical Substances Information Network may be viewed as an overall blueprint for developing effective information exchanges among the four agencies.

It is not a monolithic super-system however, nor even a series of systems electronically tied together. Rather it is a set of individual components which, when viewed together, can be used to effectively meet information needs of agencies involved in regulatory chemicals.

The ten core system components of the proposed network are:

(1) Chemical Data Base Directory; (2) Chemical Structure/Nomenclature System; (3) TSCA Chemical Data System (Proprietary); (4) TSCA Chemical Data Systems (Public); (5) TSCA Reports Management System; (6) Toxicology Data System; (7) Chronic Testing Support System; (8) Bibliographic Literature Scanning System; (9) Laboratory Animal Data System; and (10) Regulated Chemical Standards System.

CEQ has funded a feasibility study to further evaluate the requirements, implementation alternatives, costs, and benefits of the first two of these components of the proposed network. All or parts of several such system components exist or are contemplated outside the IRLG. However, two system components appear appropriate for IRLG development, and are discussed below in some detail.

III. COORDINATION PROJECTS

The Information Exchange Work Group has identified four projects which provide for coordination of ongoing activities presently performed independently by the four agencies.

These four projects are discussed separately below.

A. Common Identification Codes

The first coordination project provides for the use of common identification codes for related information among all four agencies.

This would apply to codes for specific chemicals, establishment sites, products, and uses. These codes would be applied both to new as well as existing information systems which would be commonly useful among the four agencies, unless a written cost/benefit analysis demonstrates it is not reasonable to do so.

There should be a common policy and implementation plan developed in all four agencies that requires that the Chemical Abstracts Service (CAS) registry number be associated with each chemical in all agency files. Once a chemical has been identified by one means or another, and its CAS number determined, access to all available information in all other files can be obtained by means of the common CAS number.

The CAS number could be placed within existing files or could be maintained in a separate table with an appropriate link into the existing file. Once this association has been established, the list of CAS numbers in the file should be provided to NLM for entry into CHEMLINE, and to EPA for entry into the EPA/NIH Chemical Information System.

There should be a common policy and implementation plan developed which requires the association of a common site-specific establishment identification code for all establishment information in all agency files. This would permit a user to identify all available information in all agency files for any given establishment. The Dun and Bradstreet number appears to be most readily adapted to this purpose, but further study is being made so that a final choice can be made by the four agencies in concert.

There should be a common policy and implementation plan developed which requires the association of a common product identification code for all product related information in all agency files. This would permit the location of specific product information in various files among the four agencies. FDA and CPSC have a strong interest in this area.

There should be a common policy and implementation plan developed which requires the association of a common hierarchical use-code for chemicals in all agency files. This would apply to uses of chemicals as determined by processors, formulators, distributors, and retailers. This would permit the location of information by

use-code in all agency files, and specific chemical to be identified.

B. Confidential Information

The second coordination project would provide for the development of common procedures for handling and securing confidential information.

There should be a common policy and implementation plan developed for the safeguarding of confidential information. Whenever confidential information is shared between agencies (as permitted by law) common procedures would minimize the possibility of error due to unfamiliarity with the other agency's procedures. This should also give industry more confidence in our collective ability to share confidential information without undue risk.

C. Monograph Planning and Production

The third coordination project provides for planning and procurement of monographs (criteria documents) and similar documents.

Monographs are substantial literature analyses of a specific topic, most typically on the toxicity of a chemical or class of chemicals.

Three of the four agencies (EPA, CPSC, FDA) issue contracts to commercial firms for monograph production. OSHA's monographs are developed by NIOSH. The cost of these monographs ranges from about $20,000 in contract costs upwards. In addition to contract costs, agencies contribute considerable resources in expert review of drafts, negotiation with and guidance of contractors, etc.

Increased coordination among the four agencies would result in substantial savings and better monographs for all. As an example, the incremental costs of adding environmental data to an occupational health monograph are considerably less than the cost of preparing a monograph on the same topic in order to assess its environmental impact.

D. Reporting Requirements

The fourth project provides for the coordination of reporting requirements in the four agencies.

These agencies impose requirements upon industry to supply data on chemicals they manufacture, import, use, or sell. Each agency's requirements are developed and implemented independently of the others, except for limited coordination provided by the Office of Management and Budget under the provisions of the Federal Reports Act. The General Accounting Office has similar duties relative to the Consumer Product Safety Commission.

The goal of this project is greater uniformity in industry submissions of data, leading to enhanced data sharing capability and to a reduction in the reporting burden placed upon industry.

The scope of this project is all voluntary or mandatory requirements for reporting or recordkeeping under the cognizance of one or more of the four agencies, where the subject of the report is a chemical substance. All such requirements are in the scope, whether or not there is any concern with the toxic effects of the subject chemicals.

Work will initially focus on requirements of the four agencies, and may then be expanded to cover requirements of other agencies in the Federal government, with the cooperation of the Office of Management and Budget.

IV. SYSTEM DEVELOPMENT PROJECTS

Two of the ten core system components of the Chemical Substances Information Network appear appropriate for development by the four agencies: a Regulated Chemicals System and a Chronic Testing Support System. This development process should begin with a feasibility study to sharpen the definition of requirements, identify implementation alternatives, perform cost/benefit analyses, and prepare recommendations for management review. Full cognizance will be taken of on-going activities in the public and private sectors which may be used as a base for the proposed systems.

E. Regulated Chemicals System

The Regulated Chemicals System would provide the user with information on standards which have been proposed or promulgated concerning individual chemical substances or classes of chemicals. The system would incorporate occupational standards, transportation, packaging, and labeling requirements, threshold levels, and various procedural regulations which impose industrial reporting requirements with respect to individual chemical substances or classes of substances. State, Federal, and international standards are all included. The system would be implemented on a data base management system that is publically available, thereby providing information to manufacturers and processors as to their respective responsibilities under various legislative authorities. Government agencies and international organizations require this system to maintain awareness of proposed and promulgated standards in order to minimize the development of conflicting standards.

F. Chronic Testing Support System

The Chronic Testing Support System would provide a software capability and storage and retrieval module for the results of long term chronic toxicity monitoring studies. The system may be used by government agencies in the conduct of long term toxicological studies (e.g., cancer bioassays conducted by NCI), by government agencies who need to review the studies (e.g., by EPA in carrying out its responsibilities under TSCA and FEPCA to review test results), or by industry when required to conduct chronic tests in response to government regulation. The system design would incorporate the requirements of the Carcinogenesis Bioassay Program of the National Cancer Institute and the integrated laboratory support capability required by the National Center for Toxicological Research. It would support private, independent agency, or industry files with access and update privileges limited to approved users. The goal of the system would be to provide a computer utility for collection, monitoring, evaluating, and reporting of bioassay information. The system would permit collection of data on chemicals and chemical preparations, the experimental procedures and test environment, the observation data and complete pathology reports on individual animals. The system would use statistical application programs and a report generator. Use of such a system by government agencies and industry encourages standardization of testing protocols, forces standardization of reporting, and incorporates concepts of good laboratory practice.

Of the projects identified to date, Project A (common identification codes) has the highest priority, and Project C (monograph planning and production) the lowest. Priorities need not be invoked, however, unless funding is involved, as different resources are, in general, assigned to each project team.

V. RECOMMENDATIONS

The Information Exchange Work Group recommends that the four agency heads approve these projects and provide resources sufficient to implement them.

The Information Exchange Work Group would provide for interagency liaison and project management of these activities. In order to carry out these responsibilities, the group will need an appropriate level of managerial and operational support. These needs are detailed as project G.

VI. DETAILED INFORMATION EXCHANGE GROUP PROJECT PLANS

Project A: Common Identification Codes

Requirement.—The four agencies presently have information systems that contain chemical-related data. It is difficult, if not impossible, to locate related information in these files due to the lack of common identification codes for specific chemicals, establishment sites, products, and uses.

It is proposed that the four agencies develop common policies for the use of

common identification codes, that implementation plans for these policies be developed jointly, and that these codes be implemented in agency systems.

Outputs.—1. Four-agency policies for the use of common identification codes for chemicals, establishment sites, products, and uses (short range).

2. Coordinated implementation plans for the above policies (medium range).

3. Implementation of common identification codes in the four agencies' systems (long range).

Evaluation.—The success of this project can be measured by the number of eligible agency files for which there are common identification codes, and the degree of use of common codes for file access.

Status and costs, November 1977.—Chemical codes.—The first output of this subproject will be a 4-agency policy designating a chemical coding system of choice to be used in all future chemical data systems (unless a cost/benefit analysis concludes that to do so would be inappropriate), and establishing a review panel to determine, for each existing chemical data system, whether or not a file conversion, to incorporate the code and facilitate data exchange, is necessary. Few resources are required for this policy promulgation beyond staff time already allocated to IRLG activities.

Second, EPA will provide, at no cost to the other agencies, chemical coding services such as codes for newly synthesized chemicals, and for chemical mixtures and the like not now subject to a coding system. This will require no special IRLG funding.

Third, agencies will be required, in pursuance of the policy, to incorporate the chemical code in new chemical data systems. This will likewise require no IRLG funding, and will result in small incremental agency costs for each new data system.

Fourth, the retrofitting of chemical codes to existing data systems, when and if done, would require additional intra-agency staff time (computer programmers) and computer time. Costs per data system will vary greatly with the complexity of the system.

No special interagency funding is projected for any activity related to chemical codes.

Establishment codes.—The second output of this project will be a 4-agency policy designating a coding scheme for establishments (regulated firms, their offices and plants). Activities here will be similar to those performed for chemical codes, except that it is anticipated that coding services will be obtained commercially on a 4-agency basis; and will require interagency funding. The magnitude of this funding will be determined in the first quarter of CY78.

Product codes.—The third output of this project will be a policy, similar to the above, designating a coding scheme for specific regulated commercial products. As in the two previous cases, coding schemes and code maintenance are available commercially. Interagency funding will be required, magnitude to be determined in the first or second quarters of CY78.

Product use codes.—The fourth output of this project will be a hierarchical scheme for coding the uses and functions of products. Complications arise because many products fit into more than one hierarchy, e.g., aerosolized paints. No commercial source of an adequate scheme is known to exist. Development will be based on in-house efforts of EPA (TSCA use coding, now in development), and the CPSC NEISS coding scheme.

Interagency contract support for generation and maintenance of a suitable scheme is anticipated; a cost figure will be estimated in the first or second quarters of CY78.

Project B: Confidential Information

Requirement.—Technical security procedures in the agencies are of varying merit. It is probable that each agency has procedures that are excellent in some ways, flawed in others. Sharing of information on security procedures should result in improved procedures for all four agencies, and uniform procedures should be devised to promote appropriate levels of security at minimum cost. In particular, cumbersome procedures are subject to short-cutting, and so should be avoided.

Each of the four agencies has differing procedures regarding proprietary information, that is, information obtained from industry which is not common knowledge, and which a firm has an interest in keeping from competitors, consumer groups, other Federal agencies, or the public. Much of this information consists of 'trade secrets' apparently prohibited from disclosure under 18 USC 1905. Some examples are:

Formulations of chemical consumer products obtained by CPSC under special order,

Technical proposals received by the agencies in response to RFPs (if claimed to be proprietary by the offeror),

Data on closed or open claims obtained from insurance companies, when these claims relate to regulated products.

The legal definition of 'trade secret' is unclear, and it appears that no Federal employee has ever been prosecuted for release of trade secret data. The definitional issue is now under study by the TSCA Data Policy Committee; a report is expected in October 1977.

Each agency has a set of technical procedures for safeguarding confidential information. These may be formal regulations, published in the FEDERAL REGISTER, or they may be entirely informal, undocumented practices. An agency may have one set of procedures for some types of proprietary data, and another set of procedures for other types.

Outputs.—A set of uniform technical procedures for safeguarding confidential information, to be implemented by each agency (short range).

Evaluation.—By its nature, the results of this project may not be amenable to quantitative evaluation. After a few months of routine operation, however, an *ad hoc* study team (in-house or contracted) could assess the benefits of the project.

Project C: Monograph Planning and Production

Requirement.—Monographs (criteria documents) are substantial literature analyses of a specific topic, most typically on the toxicity of a chemical or class of chemicals, but also occasionally on other hazards such as noise or the physical consequences of fiber inhalation.

Three of the four agencies (EPA, CPSC, FDA) issue contracts to commercial firms for monograph production. OSHA's monographs are developed by NIOSH. The cost of these monographs ranges from about $20,000 in contract costs upwards. In addition to contract costs, agencies contribute considerable resources in expert review of drafts, negotiation with and guidance of contractors, etc.

To some extent, monograph coordination is provided by the Chemical Monograph Referral Center (CHEMRiC), an activity of the DHEW Committee to Coordinate Toxicology and Related Programs, operated by CPSC. CHEMRiC exists to share news of planned, in-preparation, in-draft, and completed monographs leading to reduction in duplication of effort. In the simplest case, agency A decides not to prepare a monograph on chemical C because agency B is already in the process of doing so. B's product can be used by A when completed.

While response to CHEMRiC has shown it to be worthwhile considering the minimal resources expended (0.3 professional man-years per year and $1,500 in computing costs), more substantial monograph coordination among the four agencies could result in substantial savings and better monographs for all. In particular, the incremental costs of adding (e.g.) environmental data to an occupational health monograph are considerably less than the cost of preparing a monograph on the same topic in order to assess its environmental impact. The short-range goal would therefore be to prepare common technical specifications and order of presentation for

monographs on chemical hazards, including environmental, occupational, food, drug, and consumer exposures. The costs of including coverage of each type of exposure would be paid by the cognizant agency, or would be paid out of a joint 4-agency resource pool. (If a chemical is not of interest to one agency, that agency would not be expected to contribute to its costs. This would be the case, e.g., where a chemical has no foreseeable use other than as a pesticide.)

The medium-range goal is to streamline the monograph-acquisition process. Instead of each agency's negotiating its own contracts, identical master contracts would be issued to 2–4 firms, and individual monographs commissioned by each agency by means of task orders and funds transfer to the lead agency (or to the IEWG or IRLG as contracting office). Firms would be selected to receive master contracts by competitive procurement, awards being decided by a panel consisting of one representative from each agency.

Implementation of this plan should not prohibit individual agencies from preparing their own monographs outside the master contract, provided they also participate in the master contract.

Outputs.—Monographs (criteria documents) in a uniform canonical format for all four agencies, but with format-modules designed by each agency, which are included in or excluded from each specific monograph at the option of each agency. Monographs would be placed under uniform bibliographic control and released to the public through appropriate channels (NTIS, GPO, commercial publisher, etc.)

Evaluation.—At the completion of each monograph during the first year of this activity, each agency will assess it on the bases of technical adequacy, suitability to agency needs, and increased or decreased cost over a one-agency activity, and report to IEWG. At the end of the first year the project will be subject to a full-scale four-agency evaluation and modified accordingly.

Project D: Coordination of Reporting Requirements

Requirement.—Agencies impose requirements upon industry to supply data on chemicals they manufacture, import, use, or sell. Each agency's requirements are developed and implemented independently of the others, except for limited coordination provided by the Office of Management and Budget under the provisions of the Federal Reports Act. The General Accounting Office has similar duties relative to the Consumer Product Safety Commission.

The goal of this project is greater uniformity in industry submissions for data, leading to enhanced data sharing capability and to a reduction in the reporting burden placed upon industry. To this end the project will:

Survey existing and proposed reporting requirements in the four agencies and compile an indexed list for the use of management.

Determine which requirements (if any) are duplicative.

Identify those data items required which are of interest to more than one of the four agencies.

Identify non-uniform data requirements that could be made uniform without adverse effect upon any of the agencies, and recommend modifications to ensure uniformity in all instances unless a cost-benefit analysis indicates that in a particular instance such uniformity could not be justified.

The scope of this project is all voluntary or mandatory requirements for reporting or recordkeeping under the cognizance of one or more of the four agencies, where the subject of the report is a chemical substance. All such requirements are in the scope, whether or not there is any concern with the toxic effects of the subject chemicals.

Work will initially focus on requirements of the four agencies, and may then be expanded to cover requirements of other agencies in the Federal Government, with the cooperation of the Office of Management and Budget.

Outputs.—1. Indexed list of current reporting requirements, 2. Recommendations for modifications to specific reporting requirements.

Evaluation.—After modifications have been in effect for one year, an *ad hoc* survey should be made (a) of the agencies to measure the benefits they perceive, and (b) of selected industrial respondants to determine if their reporting burden has been lessened. In addition, users of data in each agency will be surveyed to determine if the changes have made data sharing less costly and less technically difficult.

Project E: Regulated Chemicals System

Requirement.—There is no good centralized source for obtaining all relevant standards and regulations concerning a given chemical. All government agencies and the Interagency Testing Committee that were contacted by MITRE during the course of their study expressed a requirement for such a centralized file.

The Regulated Chemicals System would provide information on standards which have been proposed or promulgated concerning individual chemical substances or classes of chemicals. The system would incorporate occupational standards, transportation, packaging, and labeling requirements, threshold levels, and various procedural regulations which impose industrial reporting requirements with respect to individual chemical substances or classes of substances. State, Federal, and international standards would be included.

The system would be implemented on a data base management system that is publicly available, thereby providing information to manufacturers and processors as to their responsibilities under various legislative authorities. Government agencies, foreign governments, and international organizations would use this system to maintain awareness of proposed and promulgated standards in order to minimize the development of conflicting standards.

Outputs.—1. Feasibility study (short-range), 2. Development of System (medium range), 3. Continued Operation of System (long range).

Evaluation.—The success of this project can be measured by the number of users and the level of their usage.

Project F: Chronic Testing Support System

Requirement.—There is no one system currently available to the four agencies which provides for storing and analyzing chronic toxicity test data interactively. Testing regulations for submission of this data will, by necessity, have to include standard formats for reporting purposes. These formats should be consistent with data submissions required by other government agencies. Industry is apparently agreeable to working out standardized reporting systems for both acute and chronic toxicity testing. This is particularly true for larger firms considering the development of in-house information systems.

The Chronic Testing Support System would provide a software capability and storage and retrieval module for the results of long term chronic toxicity monitoring studies. The system may be used by government agencies in the conduct of long term toxicity testing (e.g., NCTR, NCI), by government agencies who need to review the studies (e.g., by EPA in carrying out its testing responsibilities under TSCA or its other Acts), or by industry when required to conduct chronic tests in response to government regulations. The system would incorporate the requirements of the Carcinogenesis Bioassay Program of the National Cancer Institute and the intergrated laboratory support capability required by the National Center for Toxicological Research. It would support private, independent agency, or industry files with access and update privileges limited to approved users.

The goal of the system is to provide a computer utility for collection, monitoring, evaluating, and reporting of

bioassay information. The system would permit collection of data on chemicals and chemical preparations, experimental procedures and test environment, observation data, and complete pathology reports on individual animals. It would include links to statistical application programs and report generators. Use of such a system by government agencies and industry would encourage standardization of testing protocols, force standardization of reporting, and incorporate concepts of good laboratory practice.

Outputs.—1. Feasibility Study (short range), 2. Development of System (medium range), 3. Continued Operation of System (long range).

Evaluation.—The success of this project can be measured by the number of users and the level of their usage.

Project G: Management and Operational Support

Requirement.—The work of the Information Exchange Work Group requires resources over and above those associated with particular projects. While individual projects could be taxed at a percentage of their resource levels for general support, it is considered perferable to establish a separate project for management and operational support.

Support services are required to enable the IEWG to function optimally. These services include:

Technical and Administrative support.
Secretarial/Clerical support.
Facilities and materials.
As-required consultation on specific topics.

The first three categories of support will be provided by the cognizant agencies; consultation, as and when required, should be provided by when-actually-employed personal services contracts. (It is not anticipated that such contracts will be required before the second half of FY 78.)

Outputs.—The outputs of this project consists of project work plans, ongoing management of the Work Group, planning of the Work Group activities, evaluation of ongoing and completed projects, and reports to IRLG and outside groups.

If a large number (10-20) of projects are eventually underway, resource needs above may need to be doubled.

Evaluation.—Evaluation of the contracts will be made quarterly or more often by the Work Group; evaluation of the management of the Work Group will be made by the IRLG on a continuing basis.

VII. EXAMPLES OF POSSIBLE FUTURE PROJECTS

The table below lists projects identified by the Information Exchange Work Group as worthy of further investigation to determine if they may be suitable for development as project plans by the Work Group in the future. Each project, as appropriate, is divided into short-range, medium-range, and long-range activities.

The table is not intended to include all four-agency information projects which may be considered in the future, but only those suggested by the Work Group members in the brief period since the Work Group was established.

Information Exchange Work Group Examples of Possible Future Projects

Short range	Medium range	Long range
Prepare brief analysis of 4-agency legislation which affects information exchange.	Study feasibility of new legislation to put 4 agencies on the same footing in regard to information collection and exchange.	Draft and propose suitable laws.
Share knowledge of product formulation resources used by each agency, e.g., their own surveys, CTCP, Poisindex.	Share formulations to the extent permitted by law; propose changes in laws.	Establish joint product formulation data base with uniform formats to the extent possible considering the missions of the agencies.
Establish early warning network to promote very rapid sharing of basic information on crisis chemicals.	Continue short-range activities	Continue medium-range activities.
Compile information on various systems for identification of commercial firms (establishments).	Build data base cross-referencing existing systems.	Do.
Prepare and maintain a 4-agency roster of technical information specialists and their areas of expertise.	Hold quarterly meetings/workshops of information specialists to share ideas and approaches.	Establish joint information science service group.
Prepare and maintain a roster of key people and organizations outside the 4 agencies who should be kept informed; meet with them individually as appropriate.	Prepare presentations of outside people and organizations.	Establish advisory committee.
Prepare and maintain a roster of experts in various aspect of toxicology: within the 4 agencies; in other Federal agencies; outside Federal Government.	Consult with toxicologists within the 4 agencies as needed; make individual outside toxicologists available to the agencies via personal services contracts, as needed.	Establish joint toxicology-consultation service.
Using MITRE report as a starting point, share information of data bases among the 4 agencies.	Consider intergrating some data bases as appropriate.	Coordinate data bases for maximum information sharing with minimum incompatabilities.
Share technical library catalogs among the 4 agencies.	Propose nonduplicative acquisition of infrequently used journals; and other types of coordination.	Establish joint technical library system with 4 branch libraries.

DR. PATRICIA BRESLIN,
Chairman, Information Exchange Work Group.

DECEMBER 1, 1977.

REGULATORY DEVELOPMENT WORK PLAN

I. SUMMARY

The Regulatory Development Work Group has agreed on an overall work plan with two preliminary outputs. First, coordinated interagency regulatory action on 28 items/toxic chemicals which are being considered for regulatory action. Second, implementation of an interagency alert system designed to inform the other agencies of an upcoming regulatory action by one of the agencies.

Assuming the two immediate outputs can be accomplished in 1977 the plan calls for work on seven secondary outputs to be initiated in early 1978:

A. Develop a coordinated policy for the funding of public participation in regulation development.

B. Develop procedures for routinely determining which of the statutory authorities implemented by the agencies may be the most appropriate authority to use in response to a given situation.

C. Conduct an analysis of the criteria used by the agencies in evaluating petitions for action and improve procedures used to coordinate responses to petitions by the four agencies.

D. Develop common policies for employees when dealing with regulated industries.

E. Identify and analyze various supplementary approaches to direct regulation such as economic incentives and voluntary industry action.

F. Develop procedures for conducting joint hearings and meetings on common regulatory actions and issues pending before the agencies.

G. Develop a consolidated listing of advisory committees established by the four agencies and consider mechanisms to facilitate the sharing of advisory committees by the agencies.

If the aforementioned regulatory action coordination cannot be accomplished as scheduled, one or more of the 7 secondary activities listed above will be delayed accordingly.

It is recognized that many of the outputs will require the work group to coordinate its activities with the work group formed by the General Counsels of the four agencies.

II. OBJECTIVES

(a) To improve public protection from toxic and hazardous substances.

(b) To provide consistent regulatory policy, share information, and decrease duplication of effort.

(c) To lessen the administrative burden on regulated industries, the public, and the agencies themselves.

III. METHOD OF APPROACH

The function of the Work Group is to produce coordinated action. We will produce an action-tested system rather than general recommendations for change. Any studying of the problem will be by example, rather than in the abstract.

In keeping with this action orientation, the Work Group will immediately inventory pending potential rulemaking actions of the four agencies involving toxic or hazardous substances problems. Appropriate program management will be identified and encouraged to coordinate interagency regulatory development. A coordinated program work plan which reflects the joint and independent regulatory actions will be created for each toxic substance. This will result in early coordination of rulemaking actions among the four agencies in selected areas of concern. It is anticipated that the results of these initial endeavors will be utilized to develop a more general framework for coordinating, to the extent possible, future actions relating to the control of toxic and hazardous substances.

To achieve the goals of continued cooperation and routine coordination among the four agencies, program directors and policy-makers in each of the agencies must be aware of the plans and progress of the Regulatory Development Work Group. Therefore, each representative to the Work Group should take all necessary steps to ensure that his agency's key personnel are consulted about and involved in the activities of the Work Group.

IV. SCOPE OF WORK

A. Initiate Immediate Action by the Four Agencies.

Coordinate rulemaking on 25 items/toxic or hazardous substances which are being considered for regulatory action. This project will include the development of an inventory of current regulatory activities underway in each agency for a wide variety of toxic chemicals such as benzene, arsenic, etc.

Establish an Alert System to inform the other agencies of upcoming regulatory action by one of the agencies. A preliminary system will be in operation by October 1, 1977.

B. Initiate Four-Agency Action by February 1978.

Some outputs to be initiated in this time frame will draw on the experience gained on the "immediate action" items above. The following outputs will focus on actions within existing authorities.

Develop a coordinated policy for the funding of public participation in regulation development.

Develop procedures for determining the most appropriate legislative basis for a rulemaking action by the four agencies. This activity may overlap with the OGC work group activities and possibly might be led by them.

Conduct analysis of criteria for evaluating petitions received by the Agencies to regulate toxic and hazardous chemicals and coordinate action on petitions by the agencies.

Develop common policies for employees when dealing with the regulated industries including policy toward the use of contractors and consultants, if appropriate.

Identify and analyze various supplementary approaches to direct regulation such as the use of economic incentives and voluntary industry action to accomplish public health and environmental objectives.

Develop procedures for conducting joint hearings and meetings on common regulatory actions and issues pending before the agencies.

Develop a consolidated listing of advisory committees used by the four Agencies and consider mechanisms for sharing advisory committees.

C. Initiate Action by July 1978.

Outputs and specific objectives to be initiated in the July 1978 time frame will be identified during the development of the earlier outputs. If appropriate, some outputs may focus on legislative, organizational, or regulatory changes needed to remove constraints to further cooperation among the four agencies.

V. TASKS FOR IMMEDIATE ACTION OUTPUTS

Output A. Coordinate Rulemaking on Selected Chemicals.

Lead Agency—OSHA.
Support Agency—EPA.

1. Preliminary identification of substances on which regulatory action is pending or proposed. 9-26-77
2. Establish a final inventory of chemicals on which multi-agency regulatory actions are pending or proposed. 10-5-77
3. Obtain agencies' inputs on ongoing regulatory activities for designated items/chemicals. 11-1-77
4. Brief lead persons creating coordinated work plans. 11-1-77
5. Contact interagency program personnel for each designated item/toxic substance. 11-15-77
6. Drafts of the coordinated work plans. 12-1-77
7. Final work plans. 12-15-77

Output B. Establish an Alert System.

Lead Agency—CPSC.
Support Agency—FDA.

1. Create interim Alert System procedures for each agency. 9-14-77
2. Initiate test of Alert System. 9-14-77
3. Analyze Alert System test results. 11-23-77
4. Adopt or modify Alert System. 12-20-77

5. On an "as required" basis use Alert System as the initial coordinating and planning point for "crisis chemicals" events, (ongoing).

Output C. Develop Consolidated List of Applicable Advisory Committees and Consider Mechanisms for Sharing Them.

Lead Agency—CPSC.
Support Agency—OSHA.

1. Develop consolidated list of applicable advisory committees in all four agencies. 11-1-77
2. Review membership, scope of activities, etc., of the various committees and determine if any could be utilized by more than one agency. 11-21-77
3. If any sharing is possible, propose optional mechanisms for sharing, including an analysis of costs, policy issues, etc. Recommend whether any sharing is desirable or cost-effective. 12-21-77

VI. TASKS FOR OUTPUTS TO BE INITIATED BY FEBRUARY 1978

D. Develop a Coordinated Policy for Funding Public Participation.

Lead Agency—CPSC.
Support Agency—FDA.

1. Analyze the agencies' existing policies/regulations to determine where differences exist. 11-14-77
2. Identify and analyze basis for differences, i.e., statutory, agency policy. 12-2-77
3. Evaluate operational experience under agencies' programs, in accordance with selected criteria for evaluation. 6-15-78
4. Determine whether identified differences in programs lead, in practice, to inconsistent treatment of individuals in similar situations or in other ways interfere with coordinated Federal approach. 7-15-78
5. Consider ways of reconciling differences to achieve maximum consistency, e.g., establishing uniform policy, seeking legislative action to resolve statutory differences. 8-15-78
6. Implement efforts to achieve maximum consistency. 7-15-78

Output E. Working with the General Counsels, Develop Procedures for Determining the Most Appropriate Legislative Basis for a Rulemaking Action.

Lead Agency—EPA.
Support Agency—CPSC.

1. Analyze the legal bases for action. 1-25-78
2. Establish interim procedures. 2-25-78
3. Develop and analyze alternative procedures. 3-1-78
4. Select most feasible alternative and initiate. 5-24-78

Output F. Conduct Analysis of Criteria for Ranking Petitions for Action and Consider Improved Mechanisms for Coordinating Action in Response to Petitions.

Lead Agency—FDA.
Support Agency—OSHA.

1. Review each agency's current practices and criteria for action. 2-15-78
2. Develop pro/con matrix for criteria and, to the extent possible, establish common criteria.

Output G. Establish Common Policies for Employees When Dealing With the Regulated Industries.

Lead Agency—FDA.
Support Agency—EPA.

1. Review existing policies highlighting overlaps and discrepancies. 2-15-78
2. Identify problems which could be relieved by an improved common policy on conduct. 4-26-78
3. Identify statutory or regulatory constraints. 5-24-78
4. Draft, review, finalize, and implement common policies on conduct. 8-30-78

H. Identify Alternatives and Conduct Analyses of Various Supplementary Approaches to Direct Regulation, Including Economic Incentives.

Lead Agency—EPA.
Support Agency—CPSC.

1. Review and evaluate existing or proposed supplementary approaches. 3-15-78
2. Identify program areas most compatible with nondirect approaches. 4-8-78
3. Draft strategies for prototype non-direct regulatory programs. 5-10-78
4. Initiate prototype programs. 8-30-78
5. Evaluate non-direct supplemental regulatory program and draft appropriate recommendations (ongoing).

I. Establish procedures for Conducting Joint Public Hearings and Meetings.

Lead Agency—OSHA.
Support Agency—FDA.

1. Develop matrix of actions in which public hearings are mandated or policy based. 3-15-78
2. Review regulatory and legislative constraints to joint hearings. 5-10-78
3. Draft proposed procedures for joint hearings and meetings. 7-15-78
4. Finalize procedures and conduct joint hearings and meetings. 9-13-78

VII. RESOURCES AND RESPONSIBILITIES

Lead and primary support agencies are assigned to each of the nine output items as indicated in the Task Descriptions. All agencies will participate in the review of outputs at the regular work group meetings. The establishment of additional "Sub-Work Groups" for each task was considered but rejected because of added bureaucratic and management problems.

Work Group representatives are responsible for ensuring adequate resource commitments and timely completion of tasks assigned to their respective agencies. From time to time, other Work Group members may be called upon to support a particular task, and the work group members have agreed to respond positively to any such requests. Overall, the tasks will be carried out by the work group as a whole, under the leadership of the designated agency.

MR. HENRY E. BEAL,
Chairman, Regulatory Development Work Group.

NOVEMBER 30, 1977.

RESEARCH PLANNING WORK PLAN OBJECTIVES AND GOALS

Regulatory decisions on toxic substances rest on a foundation of technical information. Since many such substances are of common interest to one or more of our four agencies, there are obvious advantages to the joint acquisition and usage of such data through the coordination of toxicity-related research of mutual interest.

In keeping with the ACTION NOW philosophy of the IRLG, the Research Planning Work Group has identified three major goals for immediate implementation:

A. Document and coordinate existing (planned for FY 78 and 79) projects in the four agencies to eliminate undesirable duplication, maximize effectiveness and identify gaps in needed research.

B. Jointly plan and coordinate budgets for selected mutual interest programs/initiatives for inclusion in the President's FY 80 Budget Submission to Congress.

C. Develop a comprehensive action plan for more effectively utilizing nonregulatory research programs in regulatory decisionmaking.

The subordinate tasks required to achieve these goals are discussed in the following text and implementation schedule.

GOAL A. INVENTORY AND COORDINATION OF EXISTING RESEARCH

Task 1.—*Exchange Complete Listings of Intra-Extramural Research Projects*—The four agencies will provide a complete, compatible listing of all current intra and extramural research (as well as that proposed for FY 79). The Work Group will initiate this task immediately using a standardized format. As a minimum, this would include the project title, a brief narrative giving the objectives and the anticipated results and the level of effort. A mechanism will be established for the continuous updating of the joint compendium.

Task 2.—*Preparation of Report on Major Areas of Overlap and/or Gaps in Research, with Recommendations for Action*—Upon completion of the research inventory, the Work Group

staff will begin the actual process of coordination by analyzing existing projects to determine:

(a) Areas of common interest;

(b) Current levels of effort;

(c) Obvious redundancies in research; and

(d) Apparent gaps or deficiencies.

Emphasis will be placed upon the 12 research needs which have been identified as high priority areas by the agency heads. For these priority areas a separate report will be developed to identify the type and level of existing effort both within and outside the agencies.

On the basis of this analysis, the Work Group will make recommendations for immediate actions in the form of Program and Budget redirection, including: suggestions for future joint funding, designation of a "lead" agency and the development of collaborative protocols for actual research investigations.

Task 3.—*Implementation of Approved Program/Budget Actions*—Upon approval by the agency heads, the Work Group will immediately take the necessary, coordinated steps to insure the appropriate reprogramming of agency efforts (Task 2).

This task will help demonstrate the feasibility of coordinated research efforts between the four agencies.

GOAL B. JOINT INITIATIVES FOR PRESIDENT'S FY 80 BUDGET SUBMISSION

The initial research inventory and the ensuing recommendations affecting the FY 79 Budget (Goal A) are designed to initiate substantial interagency coordination at the earliest possible time. This second level of initiatives (Goal B) is designed to establish a permanent process for deepening and expanding such coordination.

Task 1.—*Develop 4-Agency Coordination Budget Action Plan*—A permanent Implementation Committee will be formed, consisting of the present Work Group, with the responsibility to provide direct input to agency representatives involved in the budget and planning processes.

Task 2.—*Analysis of Areas of Mutual Interest and Recommendations for Joint Planning/Budget Initiatives*—Areas of mutual interest having been previously identified (Goal A, Task 2), *ad hoc* technical analysis committees, consisting of designated bench scientists of the four agencies, will be formed for exchange of technical information, discussion and recommendations to the Implementation Committee.

This will insure that the technical insight of those who are most knowledgeable on the subject matter will be integrated into the planning and budget processes.

The permanent Implementation Committee will analyze these recommendations, establish the priorities for research funding and make recommendations for coordination and redirection to the four agency heads (as part of Task 3).

Task 3.—*Joint Testimony Before OMB and Congress Relating to Mutual Research Initiatives*—This planning and budget process should result in technically sound Mutual Research Initiatives, and will provide an unprecedented basis for the presentation of budget testimony. The process will insure an absence of redundancy, will provide programs that have mutual interest to several agencies rather than competitive efforts, and allow agency heads to testify in a collaborative manner.

GOAL C. REGULATORY V. NON-REGULATORY RESEARCH ACTION PLAN

Regulatory research depends to a large degree on the findings of earlier basic, non-regulatory research. Ideally, coordinated basic R&D should provide the base from which an expedient transition can be made into the studies that may be required to implement regulations. The Action Plan is designed to achieve the necessary coordination. Subsequently updating of this plan in line with new priorities and program efforts will assure that future needs can be projected and completed as required in the regulatory decisionmaking process.

Task 1.—*Request Project Listing from Supporting Agencies/Institutes*—The Work Group will initially acquire from appropriate non-regulatory agencies inventories of all current or projected research in areas of common interest to the four agencies. Agencies to be included are:

(a) National Institute of Environmental Health Sciences.

(b) National Cancer Institute.

(c) Other National Institutes of Health.

(d) National Institute for Occupational Safety and Health.

(e) Communicable Disease Center.

(f) National Oceanographic and Atmospheric Administration.

Task 2.—*Initiate Analysis of Non-Regulatory* vis-a-vis *Regulatory Research*—The Work Group will analyze the preceding inventory to determine subjects of priority interest to the four agencies.

Task 3.—*Complete Non-Regulatory vis-a-vis Regulatory Research Action Plan*—Based on the preceding analysis, the Work Group will recommend to the four agency heads a plan for coordination or new initiatives required for regulatory decisionmaking.

RESEARCH PLANNING TASKS/MILESTONES

GOALS	Sept. 77	Dec. 77	Mar. 78	June 78	
A. Inventory & Coordinate Existing Research	**** WORK PLAN APPROVAL BY PRINCIPALS **** (Work Group) Exchange Complete Listings of Intra/ Extramural Research Projects	**** REPORT TO PRINCIPALS **** (Work Group Staff) Complete Report on Obvious Overlap/Gap Areas Rec. Immed. Action re: Program/Budget Redirection	**** DECISION BY PRINCIPALS **** (Work Group) Implement. of Appr'd Actions -- Coordinate FY-79 Budget Supplement if Approp.	**** REPORT TO THE PRINCIPALS ****	
B. Joint Initiatives for President's FY-80 Budget Submission	(Implementation Committee) Develop 4-Agency Coordinated Research Action Plan	(Implementation Committee) Analyze Areas of Mutual Interest and Recommend Budget Initiatives	(Implementation Committee) Negotiate Details of Who Should Be Head Agency for Specific Research Areas	(PRINCIPALS) Joint Testimony Before OMB and Congress re Mutual Initiatives	
C. Regulatory vs. Non-Regulatory Research Action Plan		(Work Group) Request Project Listings from Support Agencies/Institutes	(Work Group) Initiative Analysis of Non-Regulatory vis-a-vis Regulatory Research	(Work Group) Complete Non-Regulatory vis-a-vis Regulatory Action Plan	

DECEMBER 9, 1977.

DR. ROBERT L. ELDER,
Chairman, Research Planning Work Group.

Risk Assessment Work Plan

I. SCOPE AND JUSTIFICATION

A. *Broad Objective.*—The Risk Assessment Work Group will develop procedures and criteria that can be uniformly applied by the four agencies for purposes of characterizing and quantifying human health risks associated with certain chemicals.

B. *General Background.*—

1. *Introduction*—A common objective of the four agencies is the assessment of human health risks associated with chemicals, devices, consumer goods, etc. to which the population of the United States is exposed in a variety of ways. In general the goals of risk assessment are to characterize the types of health hazards that may result from such exposures and to quantify the expected risks. For the present, the Work Group intends only to treat the problems associated with health risks due to chemicals. It is in this area that the greatest commonality of purpose exists among the agencies. Moreover, it is the area in which the greatest confusion now exists, not only among the public, but also within the regulated industry. It is also the subject presenting one of the greatest opportunity for successful achievement of the broad objectives of the IRLG.

2. *The Scientific Problem*—Characterizing and quantifying health risks are scientific tasks. The data necessary to accomplish such tasks derive from toxicity testing and/or epidemiological studies. Also needed is information on the known or expected level of human exposure to the chemicals of concern. Other IRLG Work Groups are developing approaches to the proper collection of such information. The Risk Assessment Work Group will develop procedures to treat the data for purposes of assessing human risk.

Because of serious gaps in scientific knowledge, there are often alternative and conflicting views of the risks associated with chemicals to which people can be exposed. The Risk Assessment Work Group will examine the available scientific tools used in such assessments and select for use by the four agencies those currently having the strongest experimental and theoretical support. Unless selections of these types can be made and agreed upon, conflicting views of risk will continue to cloud regulatory decision-making.

3. *Role of the Policy-Maker*—Whether a particular type or level of risk may have to be accepted in certain circumstances is a policy decision, but this issue should not become entangled with the scientific problem of risk measurement. The Working Group will restrict its task solely to the development of procedures for making risk assessments and will stop short of making statements regarding the balancing of risks and benefits or suggesting the appropriate regulatory responses for particular types and levels.

4. *Need for Uniform Procedures and Criteria*—The public and the regulated industry are ill-served when the agencies assess risk in different ways. Policy decisions made by the four agencies on the degree of acceptable risk in different circumstances create substantial confusion (in part brought about by differences in legal mandate and interpretation) and this confusion should not be compounded by differences in approach to the scientific assessment of risk.

5. *Task of the Work Group*—An objective of the Work Group might be the development of systems to insure that the agencies routinely work together to conduct risk assessments on specific substances of mutual interest. However, the Work Group holds that such an objective is far less important than the broader one of developing and selecting general procedures and criteria for risk assessment that can be uniformally applied to all chemicals regulated by the agencies, including those substances for which only one agency is responsible.

Until the rules for risk assessment are clearly laid out and agreed upon, efforts to reach a consensus on the type and degree of risk associated with specific substances of mutual concern will in many instances be thwarted. Furthermore, in the absence of uniform criteria and procedures, the risks associated with chemicals that are the responsibility of only one agency will continue to be estimated in a different manner than those associated with chemicals regulated only by a second agency. This undesirable situation will not be remedied if the task of the Work Group is limited to the joint conduct of risk assessments on substances of mutual interest.

6. *Output of the Work Group*—Several projects are envisioned (Section IV). Out of each will come a document detailing a set of procedures and criteria that can be adopted by each agency as acceptable for assessing risk. After appropriate internal review, these documents will be jointly published in some form and will become part of the scientific operations of the agencies.

II. CURRENT STATUS

There has never been a joint, in-depth examination of the various approaches to risk assessment now in use by the four agencies. The Work Group will need some time to catalogue current procedures and criteria, to identify differences and the reasons for them, and to decide on action necessary for the resolution of differences. Further complicating the task will be the almost certain discovery of a complete lack of rational criteria and procedures for assessing some types of risk.

III. GENERAL APPROACH OF WORK GROUP

Listed in Section IV are specific projects, each of which is an integral component of the task of risk assessment. Although the individual projects or subprojects may require somewhat different approaches, the following steps serve as a general guide to the activities of the Work Group:

Step 1: Develop a complete statement of the problem.

Step 2: Catalogue present approaches of the four agencies and differences in approach.

Step 3: Determine if any of the differences are necessitated by differences in law.

Step 4: Study approaches in use and others available.

Step 5: Select, where possible, a common approach, and prepare a document detailing the reasons for the choice. Where a common approach is not possible, explain why. This document will also provide instructions for the conduct of assessments and on the proper use of such assessments in regulatory decision-making.

Step 6: Develop a plan, where necessary, for continued study and evaluation of alternative approaches.

Step 7: Announce publicly and jointly the selected approach and reasons for the selection; where a

common approach cannot be used, explain why.

Step 8: Incorporate the selected approach into the review and evaluation operations of each agency.

Step 9: Provide for continuous, joint review of specific problems encountered as the selected approach is applied.

The first six steps are activities of the Work Group alone. The last three steps cannot be carried out without broader agency cooperation.

IV. PROPOSED PROJECTS OF THE RISK ASSESSMENT WORK GROUP

The Work Group intends to accomplish its objective by first undertaking the following project:

Project RA1—Procedures and Criteria for Assessing Health Risks Associated With Carcinogens

Of the several types of health risk projects that could be undertaken by the Work Group, a project on cancer risk assessment presents the highest probability for relatively short-term, successful accomplishment. A good portion of the necessary background documentation and study has been done, and the remaining tasks of bringing together the necessary information and making selections among the available approaches to carcinogenesis risk assessment should prove relatively straightforward.

Following upon successful completion of Project RA1, the Work Group, guided by the experience gained, similarly intends to treat other types of health risks that may be associated with chemicals.

V. ACCOMPLISHMENT OF OBJECTIVES

Outlined below are the factors to be considered and resolved to complete RA1 (Carcinogenesis Risk), and the resources necessary for each step.

Project RA1—Procedures and Criteria for Assessing Health Risks Associated With Carcinogens

A. *Final Objective and Outcome.*—Incorporation of the selected procedures and criteria into the review and evaluation activities of the agencies. Risks associated with all chemicals capable of inducing cancer will be assessed in the same way.

B. *General Approach.*—As shown under Section III.

C. *Factors Involved in Risk Assessment.*—1. Biological Information Relating to Carcinogenesis.

2. Information on Extent, Level, and Type of Human Exposure.

3. Procedures for Quantifying Carcinogenic Risk.

The Work Group will consider the various ways in which each of the above factors in the risk assessment equation are now being treated (if at all) by the agencies, examine other possible approaches, and finally settle on an approach to be adopted by the four agencies. If a common approach cannot be adopted, the reasons why will be detailed.

Work on the three factors can proceed concurrently rather than sequentially, since different scientific skills are required for each.

D. *Specific Issues to be Considered and Resolved.—RA1.1: Information Relating to Carcinogenesis.*—Output: Criteria for Classifying a Chemical as a Carcinogen.

Tasks.—Since the general criteria for assessing the evidence of carcinogenicity adopted by the NCI, EPA guidelines for assessing risks from suspected carcinogens, and the recently proposed OSHA criteria for assessing carcinogenic risks are in substantial agreement, the sub-committee has agreed to use these documents as a departure point in developing a consolidated approach to evaluating data as evidence that an agent is likely to propose a carcinogenic health risk.

As a first task, the subgroup will address the significance of various types of data including those from epidemiologic studies, animal bioassay studies, short term, *in vitro* tests, chemical structure, metabolic data, etc. Statistical procedures for treating animal data to establish significance will also be detailed.

The sub-committee will identify those problems attendant to the evaluation of data as evidence that an agent poses a carcinogenic risk and, where guidance is not available, will make recommendations for resolving difficult issues. A particularly troublesome issue to be treated is that of deciding the extent of testing required before a chemical can be classified as posing *no* carcinogenic threat. This matter is important for substances (e.g., food additives) requiring pre-market clearance.

Since each Agency will be reviewing the same data base with regard to the regulation of a particular agent as a suspected human carcinogen, the subcommittee will investigate options for sharing risk assessments or performing joint risk assessments where feasible.

Resources.—The sub-committee requires the participation of at least the following individuals:

R. Albert, M.D.—EPA.
E. Anderson, Ph. D.—EPA.
R. Bates, M.D.—FDA.
J. Rodricks, Ph. D.—FDA.
E. Bingham, Ph. D.—OSHA.
A. Keller, Esq.—OSHA.
J. Wagoner, Ph. D.—OSHA.
S. Bayard, Sc.D.—CPSC.

Specialized problem areas (e.g., hormonal carcinogenesis) may require that the Work Group consult individuals at NCI, NIEHS, NCTR, etc.

Schedule.—The first task will be developed in draft by mid-April, 1978. The sub-committee anticipates sharing various drafts of the general principles with internal committees for each of the four Agencies so that the draft available in mid-April will have the general approval of the four Agencies and can then be sent to each Agency's Advisory Committee and other Federal Agencies for review. By 30 April, a draft document should be available for a comment period. (See Overall Timetable, Section VI.)

The second task will be developed simultaneously with the first and will be completed by mid-June.

The third task will be developed simultaneously with tasks 1 and 2 and will be a part of the final package for consideration by the four Agencies by mid-June.

Constraints.—No serious constraints are envisioned.

RA1.2—Human Exposure

Output: Procedures for treating available data to estimate type, level, and extent of human exposure to suspect chemicals.

Task.—The subgroup will survey approaches used by the four agencies. Thereafter areas needing further elaboration will be defined and final procedures developed. Detailed listings of population subgroups of concern will be described; procedures will be developed so that the special subgroups of concern to the different agencies will be treated similarly, when possible.

Where monitoring data are available for use in exposure estimates the character and quality of the data will need to be defined. In the absence of monitoring data the types of information to be used for estimating exposure are primarily related to the manner of use of a chemical and associated consumption levels either estimated or known. A mass-balance approach, which includes details on pathways, release points, transport through media and fate may have to be developed. An inventory of the types of measurements taken to describe human exposure levels is needed.

Resources.—The subject of human exposure is not distinctly defined in its use by the regulatory agencies. It has been difficult to identify individuals at this point who can help. Thus, the subcommittee members will identify individuals who can contribute as the survey tasks progress. Initially, at least the following individuals will be involved:

Dr. F. Kover—EPA.
Ms. F. Ryer—OSHA.
Dr. R. Woltman—CPSC.
Dr. J. Modderman—FDA.

Schedule.—The surveys can be completed by the end of 1977 (the calendar year) so that in January an evaluation can be made of the collected information. A new work plan will be drawn up, as appropriate, as well as a

brief report on survey findings and conclusions of the analysis. A draft report will be available by April, 1978.

Constraints.—No serious constraints anticipated.

RA1.3—Procedures for Quantifying Carcinogenic Risk

Output: Procedures for treating available dose-response relationships to estimate risk at expected or known levels of human exposure.

Task.—The subgroup will survey the risk estimation procedures currently in use by the agencies. Reasons for the use of specific procedures, including relevant legal matters, will be detailed.

An updated review and discussion of all current mathematical models will be undertaken, including consideration of time-to-tumor analyses, as a preface to the final selection of a model(s). The final document will include procedures for combining data from several experiments, use of human data, and modifications based on metabolic and kinetic data.

Resources.—The subgroup requires participation of at least the following individuals:

Dr. D. Gaylor—FDA.
Dr. S. Bayard—CPSC.
Ms. A. Barton—EPA.
Mr. E. Allera—FDA.
Dr. D. Hoel—NIEHS.
Dr. C. Brown—NCI.
Dr. J. Wagoner—OSHA.

Schedule.—The agency survey phase of the work will be completed by the end of 1977. The review and critique phase will be completed in January 1978. A draft final report will be ready by April 1978.

Constraints.—No serious constraints are envisioned.

VI. OVERALL TIMETABLE FOR RA.1

A first draft of the essential features of each of the three components will be prepared by March 1, 1978.

A second draft, to include new material considered and developed in March 1978, will be prepared by April 30, 1978.

Agency review will take place during May and June 1978.

A final set of criteria and procedures, integrating the three components (RA.1.1, RA1.2, RA1.3), will be prepared by October 1, 1978.

VII. OTHER ACTIVITIES

1. An FDA-sponsored symposium "Benefit-Risk Decisions and Public Health," to be held February 15-17, 1978, in Colorado Springs, will deal with issues directly relevant to the Work Group's activities. Work Group members plan to attend and to incorporate useful information or ideas into the group's final document.

The newly-formed Toxic Substances Strategy Committee of the Council on Environmental Quality (CEQ) plans to produce a set of general (and eventually, specific) principles regarding carcinogenesis risk assessment. The IRLG will closely align its activities with that of the CEQ.

DR. JOSEPH V. RODRICKS,
Chairman,
Risk Assessment Work Group.

NOVEMBER 15, 1977.

TESTING STANDARDS AND GUIDELINES WORK PLAN

I. WORK GROUP OPERATING PRINCIPLES

The Work Group has agreed that the following tenets will be applied as it proceeds with the task to develop testing guidelines, criteria for interpretations, quality assurance procedures, and other policies relating to the testing of toxic and hazardous substances.

A. Decisions will be made by consensus. Consensus here means collective agreement. Therefore, it is understood that any document recommended by this work group to the IRLG is acceptable to each and every work group member.

B. Guidelines will be developed for conducting studies that are mutually acceptable and useful, but each agency must determine how it will use the data generated by those studies.

C. Outside guidance will be solicited when appropriate, but formal advisory groups will not be established.

The group recognizes the value of balanced, widespread input and will seek to establish contacts with experts from industry, academia, and public interest groups.

It also recognizes that guidelines agreed upon by these four agencies may influence international standards for toxicology testing. Consequently, the group will attempt to coordinate the development of these guidelines with appropriate international organizations such as OECD and WHO.

D. The activities of the group should neither impair nor impede essential rulemaking by individual agencies. Attempts will be made to complement current agency activities and to incorporate the results of ongoing agency efforts into the final Work Group product.

E. The Work Group will be kept small, and it will form from its present membership a subgroup to develop standard guidlines for tests in the ecological and environmental areas. The Work Group and the subgroup will draw on the expertise of other staff members as needed to gain overall perspective and to insure completeness.

F. To keep the public informed, the Work Group will publish in the FEDERAL REGISTER the guidelines as they are developed as well as notices of public Work Group meetings and public forums.

II. GOALS

Definition of terms: Short Term Goals—Action could be taken within 6 months. Intermediate Goals—Action would require 6 months to a year to accomplish. Long Term Goals—Action would require over one year to accomplish.

The Work Group anticipates that some of the short term and intermediate goals may develop into longer term goals. In such cases, the limitations will be identified and dealt with as they become evident.

A. Short Term Goals

1. Review documents currently available and used by the agencies as guidelines for testing or Good Laboratory Practices.

2. Develop working definitions for tests the agencies now require in order to use a common vocabulary in the establishment of common guidelines.

3. Standardize guidelines for:

(a) Acute tests related to assessment of health effects:

(1) Dermal, (2) Inhalation, (3) Ocular, (4) Oral administration.

(b) Tests related to assessment of ecological and environmental fate and effects:

(1) Species for use in toxicity bioassays, (2) Fish toxicity—acute toxicity, (3) Bird toxicity—acute toxicity in seed-eating birds, (4) Phytotoxicity—foliar toxicity; algal assay, (5) Aquatic invertebrate toxicity—*Daphnia* acute and chronic toxicity; oyster/clam shell deposition growth assay; and oyster larvae acute toxicity, (6) Microbial effects testing—growth inhibition of bacteria, fungi and actinomycetes; laboratory scale activated sludge communities, (7) Fish bioconcentration test, (8) Vapor pressure, (9) Water solubility, (10) Hydrolysis rates (aqueous systems only), (11) Adsorption/Desorption, (12) Octanol/Water partition coefficient.

4. Consider for adoption the FDA Good Laboratory Practices for related toxicology studies.

5. Consider for adoption the PHS Safe Practices for the Handling of Carcinogens.

6. Consider for adoption the PHS Guidelines for the Protection of Human Subjects in Toxicity Tests.

B. *Intermediate Term goals*

Standardize guidelines for:

1. Tests related to assessment of health effects:

(a) Subchronic studies, (b) Chronic toxicity, (c) Carcinogenicity, (d) Teratogenicity, (e) Reproduction.

2. Tests related to assessment of environmental hazard:

(a) Fish and frog egg-larval subacute toxicity, (b) Waterfowl acute toxicity, (c) Semi-aquatic invertebrate toxicity—midge subacute toxicity, (d) Terrestrial invertebrate toxicity—honeybee acute toxicity, (e) Microbial degradation of chemicals—non-enriched mixed cultures dervied from activated

sludge, soil, or stocks of cultured organisms, (f) Microbial metabolic functions—nitrogen fixation; nitrification, denitrification; cellulose, starch, and protein degradation, (g) Phytotoxicity—seed germination; growth assays; duckweed toxicity, (h) Hydrolysis rates (soil systems), (i) Photolysis rates, (j) Leaching rates, (k) Vapor loss from leaf, soil, and water surfaces.

C. Long Term Goals

1. Tests related to assessment of health effects:

(a) Mutagenicity tests, (b) Behavioral studies, (c) Neurological tests, (d) Short term *in vitro* tests.

2. Tests related to assessment of environmental hazard:

(a) Aquatic invertebrate toxicity—acute and chronic toxicity in *Gammarus*, mysid and penaeid shrimp, crayfish, bivalves, (b) Fish toxicity—egg to egg chronic toxicity, (c) Microcosm protocol for measuring ecosystem-level effects.

3. If necessary, propose legislative changes needed to permit development of additional uniform guidelines.

4. Data submission and review formats (in conjunction with the Data Integration Subgroup of the Information Exchange Work Group).

DR. JAMES R. BEALL,
Chairman, Testing Standards and Guidelines Work Group.

NOVEMBER 18, 1977.

PUBLIC MEETINGS

Pursuant to the provisions of the Interagency Agreement (42 FR 54856, October 11, 1977), which established the Interagency Regulatory Liaison Group, notice is hereby given that the following Work Groups will hold public meetings at the dates, times and places listed. (The Testing Standards and Guidelines Work Group held a public meeting on December 14, 1977.)

COMPLIANCE AND ENFORCEMENT WORK GROUP

Monday, March 6, 1978, 10 a.m. until 12 noon, FDA, 200 C Street SW., room 1409, Washington, D.C. 20201.

EDUCATION AND COMMUNICATIONS WORK GROUP

Thursday, March 2, 1978, 2 p.m. until 4 p.m., EPA, 401 M Street SW., room 2117/2123, Washington, D.C. 20460.

EPIDEMIOLOGY WORK GROUP

Friday, March 3, 1978, 10 a.m. until 12 noon, EPA, 401 M Street SW., room 3906/3908, Washington, D.C. 20460.

INFORMATION EXCHANGE WORK GROUP

Friday, March 3, 1978, 10 a.m. until 12 noon, EPA, 401 M Street SW., room 2117/2123, Washington, D.C. 20460.

REGULATORY DEVELOPMENT WORK GROUP

Thursday, March 2, 1978, 2 p.m. until 4 p.m, EPA, 401 M Street SW., room 3906/3908, Washington, D.C. 20460.

RESEARCH PLANNING WORK GROUP

Monday, March 6, 1978, 10 a.m. until 12 noon, FDA, 200 C Street SW., room 1813, Washington, D.C. 20201.

RISK ASSESSMENT WORK GROUP

Friday, March 3, 1978, 2 p.m. until 4 p.m., EPA, 401 M Street SW., room 3906/3908, Washington, D.C. 20460.

Purpose: Each Work Group will present updated information about the activities, goals, and procedures, as outlined in their work plans. The Work Groups will invite questions and comments from the public.

For further information, contact Ms. Susan Guenette, IRLG Executive Assistant, at 301-492-6731 or address correspondence to Ms. Susan Guenette, IRLG Executive Assistant, Consumer Product Safety Commission, 5401 Westbard Avenue, Room 450, Bethesda, Md. 20207

COLIN B. CHURCH,
Chairman, Interagency Regulatory Liaison Group.

FEBRUARY 3, 1978.

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